

# Pregnancy and maternity discrimination

## 1 . What the law says

'Pregnancy and maternity' is one of 9 'protected characteristics' covered by discrimination law (Equality Act 2010).

Pregnancy and maternity discrimination includes direct discrimination and victimisation.

Discrimination can happen in any area of work. It can result from decisions made at work or from how people behave towards each other.

It could be a regular pattern of behaviour or a one-off incident. It can happen during recruitment, at work or when people are on maternity leave.

## How the law defines pregnancy and maternity discrimination

The Equality Act 2010 says that pregnancy and maternity discrimination is unfavourable treatment that happens:

- because someone is pregnant
- because someone is on maternity leave or has the right to take maternity leave
- because of pregnancy-related illness

Someone is only protected from discrimination if their employer knows they're pregnant. Or if the employer should reasonably have known.

## The protected period

The law protects people from discrimination during the 'protected period'.

The protected period starts when someone becomes pregnant. It usually ends when one of the following happens:

- their maternity leave ends
- they return to work
- they leave their job

The date someone returns to work might not be their first working day. For example, they could take annual leave straight after maternity leave. In this situation, the protected period ends on the last day of maternity leave.

For some people, the protected period ends 2 weeks after the end of their pregnancy. For example if:

- they're not entitled to maternity leave
- their pregnancy ends within the first 24 weeks, for example they have a miscarriage

## After the protected period

Some things that happen after the protected period might still be discrimination.

This applies if the discrimination is connected to something that happened during the protected period. For example, if the discrimination is because of a pregnancy-related illness that continued or got worse.

## What the law does not cover

Pregnancy and maternity discrimination law does not include:

- [indirect discrimination](#)
- harassment
- anything that happens after the protected period – unless the discrimination relates to something that happened during the pregnancy or maternity leave

However, some things could be sex discrimination instead. This is when someone is put at a disadvantage or treated less favourably because they're a woman. For example, discrimination related to breastfeeding.

[Find out about the different types of discrimination](#)

## Who is protected by discrimination law

At work, the law protects the following people against discrimination:

- anyone who works for an employer
- contractors and self-employed people hired to personally do the work
- job applicants
- someone who used to work for the organisation who has asked for a reference

## Other pregnancy and maternity rights

A pregnant employee has special protection in a redundancy situation. The redundancy protection lasts for 18 months after the baby is born.

This means that by law, their employer must offer them a suitable alternative vacancy, if there is one.

If someone is dismissed because they're pregnant or on maternity leave, this is 'automatically unfair dismissal'. It could also be discrimination.

Find out more about:

- [redundancy protection for pregnancy and new parents](#)
- [unfair dismissal](#)

## Understanding more about discrimination

If you need more general discrimination advice, you can read [discrimination and the Equality Act 2010](#). This includes advice on employer responsibilities and on other protected characteristics.

## Get more advice and support

For advice on pregnancy and maternity rights, you can read:

- [advice for pregnancy at work](#)
- [advice for maternity leave and pay](#)

If you have any questions about pregnancy and maternity discrimination, you can [contact the Acas helpline](#).

You can also get advice on family and carer-related employment rights from [Working Families](#).

## 2. Types of discrimination

Pregnancy and maternity discrimination includes:

- direct discrimination
- victimisation

It's important to understand the different types of discrimination. This is so you know what your rights and responsibilities are under discrimination law (Equality Act 2010).

### Direct discrimination

Direct pregnancy and maternity discrimination is when someone is put at a disadvantage or treated unfavourably because:

- they're pregnant
- they're on maternity leave or have the right to take maternity leave
- they have a pregnancy-related illness

[Read the full definition of direct discrimination](#)

#### Example – work performance

Ash is pregnant and announces this at work, 2 months into a new job. A week later, the manager says Ash's work is not good enough. They say Ash will not pass the 3-month probation period. Before mentioning the pregnancy, Ash had good performance reports. If the manager's decision is because of the pregnancy, this is direct discrimination.

#### Example – redundancy

An employer wants to make redundancies. They consult everyone, apart from Naz who's on maternity leave. This is direct discrimination.

The employer makes Naz redundant. Naz is not offered a suitable alternative vacancy, even though there is one. The employer is not following the law on redundancy protection. This is likely to be automatically unfair dismissal.

#### Example – recruitment

While pregnant, Erin applies for a promotion and gets it. Erin trusts the new manager enough to tell them about the pregnancy. But the new manager withdraws the offer. They say they need someone who will be available for training in the new role. This is direct discrimination.

## Example – health and safety issues

Farah works with toxic chemicals. Farah's manager knows Farah is pregnant but does not do a health and safety risk assessment. Farah is very worried and refuses to do work that might harm the baby. The employer starts a disciplinary procedure against Farah for refusing to work. This is direct discrimination. The employer has also ignored their legal responsibilities under health and safety law.

## Example – zero-hours work

Isa is on a zero-hours contract. After calling in sick because of morning sickness, Isa is no longer offered any work. The employer says they cannot rely on Isa any more. This is direct discrimination.

## Example – returning from maternity leave

Mel returns to work after maternity leave. Mel's employer says they prefer the person who did the maternity cover. They offer Mel a different job at the same pay. Because Mel's original job still exists, this is likely to be direct discrimination.

## Victimisation

Victimisation is when someone is treated unfavourably as a result of being involved with a discrimination complaint. It does not matter if the complaint was made by them or someone else.

The law also protects someone from victimisation if another person thinks they're involved. For example, the law protects someone who witnessed discrimination, even if they did not act as a witness.

Ways someone can be victimised include being labelled a troublemaker, being left out, or not being allowed to do something.

[Read the full definition of victimisation](#)

## Example of victimisation

Steph is on maternity leave. The rest of the team gets a bonus for completing a large project. Steph does not get a bonus, despite working on the same project before going on maternity leave. Steph makes a complaint.

After returning to work, Steph applies to work on an important project. Their manager blocks the application, saying that Steph is difficult and not a team player. This is victimisation.

## Indirect discrimination and harassment

Pregnancy and maternity discrimination law does not include indirect discrimination and harassment.

However, someone could experience sex discrimination if they're put at a disadvantage or treated less favourably because they're a woman.

Examples of this could include:

- offensive comments about pregnant women
- not providing facilities for breastfeeding or expressing breast milk
- an employer refusing a flexible working request from a new mother without having a genuine business reason

[Find out more about sex discrimination](#)

## Example – expressing breast milk at work

Leigh needs to express breast milk at work. The employer provides a space that's not very private. Leigh feels embarrassed and upset about the lack of privacy. Leigh tells the employer, who says Leigh is being too sensitive. This cannot be pregnancy and maternity discrimination because harassment is not covered by this law. It's likely to be a type of sex discrimination called harassment related to sex.

## Example – flexible working requests

After returning from maternity leave, Zia puts in a [flexible working request](#) for reduced hours. This is to help with childcare. The manager refuses the request without any discussion. They say the team "does not do flexible working". Rejecting the request without a genuine business reason could be indirect sex discrimination. This is because more women than men are likely to be put at a disadvantage.

## When a decision might not be discrimination

Sometimes an employer might need to change someone's job when they become pregnant. This applies when there's a health and safety risk.

Examples of health and safety risks could include:

- work-related stress
- lifting and carrying heavy objects
- sitting or standing for long periods of time
- exposure to toxic chemicals and radioactive materials

An employer has a legal duty to carry out an individual risk assessment and remove any health and safety risks. Changing someone's job is not discrimination, provided the work is still suitable for them.

[Find out more about health at work during pregnancy](#)

## Contact the Acas helpline

If you have any questions about pregnancy and maternity discrimination, you can [contact the Acas helpline](#).

Related content

[/redundancy-protection-for-pregnancy-and-new-parents](#)

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## 3. Discrimination complaints

If someone has experienced discrimination at work, they can make a complaint to their employer. The employer should take it seriously and look into it as soon as possible.

Pregnancy and maternity discrimination can be very distressing. It can have a severe impact on someone's mental health and wellbeing. In some cases, it can also affect:

- physical health, including the health of the baby
- career progression

- someone's financial situation

Employers should make sure that anyone who's experienced discrimination feels safe, protected and supported.

## If you've experienced discrimination

If you believe you've experienced discrimination at work, you can make a complaint to your employer.

You should make a complaint as soon as possible. However, if you make a complaint a long time after something has happened, your employer should still take it seriously.

[Find out what to do if you've been discriminated against](#)

## Handling a discrimination complaint

If you're an employer or manager, you should look into any discrimination complaint in a way that's fair and sensitive to:

- the person who made the complaint
- anyone accused of discrimination

You should make sure that:

- everyone in your organisation knows how to report discrimination
- anyone accused of discrimination is treated in an impartial and fair way

Someone making a complaint may be on maternity leave or off sick. You should agree with them how the complaint will be handled. Do not ignore or delay handling a complaint just because someone is not currently working.

[Find out how to handle a discrimination complaint](#)

## 4. Preventing discrimination

All employers should take steps to make sure pregnancy and maternity discrimination does not happen at work.

As an employer, you should aim for a culture where:

- everyone knows that pregnancy and maternity discrimination is not acceptable
- anyone who's pregnant, on maternity leave or returning to work feels safe, supported and valued
- you recognise and promote the benefits of an inclusive organisation

[Find out more about improving equality, diversity and inclusion](#)

## Steps for preventing pregnancy and maternity discrimination

Many ways to prevent discrimination apply equally to all 'protected characteristics'. You can find out more in our advice on [preventing discrimination](#).

Measures that are specific to preventing pregnancy and maternity discrimination include:

- having a pregnancy and maternity policy
- understanding your responsibilities as an employer

- making sure managers understand their responsibilities
- considering things that affect workers who are pregnant, on maternity leave or returning to work
- being aware of stereotypes
- recognising the impact of discrimination on mental health and wellbeing

If you're a small organisation with limited resources, you might not be able to take all measures. But you have a duty to prevent discrimination, and there's still a lot you can do. Making your organisation more inclusive does not have to be costly or complicated.

If you're a public sector employer, you also have legal responsibilities under the [public sector equality duty](#).

## Having a pregnancy and maternity policy

You should consider having a pregnancy and maternity policy. This can:

- help everyone understand their rights and responsibilities
- help to prevent discrimination, which can happen when employers make decisions without thinking them through

[Find out more about creating a pregnancy and maternity policy](#)

### Make sure other policies do not discriminate

You should check all relevant policies to make sure they do not discriminate. For example, policies around absence, recruitment or redundancy.

## Understanding your responsibilities as an employer

As an employer, you have certain legal responsibilities when someone is pregnant or on maternity leave. Understanding these can help to avoid discrimination.

Your responsibilities include:

- health and safety – you must do a risk assessment
- confidentiality – you must not share information about someone's pregnancy without their permission
- recruitment – you must not withdraw a job offer or promotion because someone is pregnant or on maternity leave
- following redundancy law – offering a suitable alternative vacancy to an employee who's pregnant or whose baby was born up to 18 months ago
- following the law on dismissals – you must not dismiss someone just because they're pregnant or on maternity leave
- communication during maternity leave – you must tell someone about important changes and opportunities
- returning from maternity leave – someone has the right to return to the same job, if it still exists

For more details of your responsibilities as an employer, read:

- [rights during pregnancy](#)
- [maternity protections](#)
- [redundancy protection for pregnancy and new parents](#)

## Making sure managers understand their responsibilities

You should make sure managers and supervisors understand their role in supporting workers who are pregnant or on maternity leave.

Managers should:

- know what the organisation's policies are around pregnancy and maternity
- support anyone who's pregnant and make sure they understand their rights
- agree how they will keep in touch with anyone going on maternity leave
- prepare for someone's return to work
- be a good example of inclusive behaviour for others to follow
- look out for any discriminatory behaviour
- deal with any discrimination that happens

## Considering things that affect workers who are pregnant or returning to work

Pregnant workers or those returning from maternity leave might have specific needs or things they're affected by.

Managers should talk with people about what they need and what support can be provided.

During pregnancy, this can include:

- time off for 'antenatal' appointments (pregnancy-related appointments made on the advice of a doctor, nurse or midwife)
- time off for pregnancy-related sickness
- support during a difficult pregnancy or after a pregnancy loss

During maternity leave or after a return to work, this can include:

- someone who's breastfeeding needing somewhere suitable to rest or express breast milk
- making a flexible working request to help with childcare

Find out more about:

- [NHS advice on breastfeeding and going back to work](#)
- [statutory flexible working requests](#)

## Being aware of stereotypes

Avoid making decisions based on assumptions about pregnancy and maternity.

Examples of stereotyping could include:

- assuming that women who have children are not interested in career development
- thinking that pregnant workers are less able to do their job or less committed

## Supporting mental health and wellbeing

Pregnancy and maternity discrimination can seriously affect someone's mental health and wellbeing. People often feel targeted, pushed out or ignored. It can have an impact on attendance and work performance.

People can also have mental health problems linked to pregnancy and maternity, for example postnatal depression.

As an employer, you have a 'duty of care'. You must do all you reasonably can to support the health, safety and wellbeing of your workers.

You do not have to be a mental health expert. But there are resources and support you can offer.

This might include:

- support through work, if you have an employee assistance programme (EAP) or a relevant staff network, for example a Women's Network
- help and information from a trade union, if someone is a member
- sharing details of specialist help and support from other organisations

Find out more about:

- [supporting mental health at work](#)
- [postnatal depression advice and support on the NHS website](#)

## Get more advice and support

If you need help to deal with any challenges in your organisation, you can:

- [contact the Acas helpline](#)
- [get tailored support for your organisation](#)
- talk to your recognised trade union, if you have one