

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](#)

[/node/265](#)

[/node/324](#)