

Supporting pregnant employees: An employer's guide

Colleagues who are pregnant have both employment law and health and safety protections afforded to them under UK law. As an employer you are duty bound to support pregnant colleagues ensuring both their employee rights are addressed and that their health and safety is assured.

Failing to protect the health and safety or denying the rights of a pregnant worker or a new mother is grounds not only for a hefty financial penalty or employment tribunal but can also be grounds for a criminal prosecution in the case of a Health and Safety violation.

Contact the Employment Law and Health and Safety consultancy team at Croner today and ensure legal compliance with the latest Health and Safety legislation. Call 0800 022 3820 and quote 932613.

Supporting pregnant employees

As an employer providing a safe working environment and managing the health and safety of all employees is your responsibility, this includes the managing of risks to women of childbearing age, pregnant workers and new mothers.

Carry out risk assessments

Upon learning that an employee is pregnant (this should be done officially in writing) has given birth in the last 6 months or is currently breastfeeding, you should carry out a risk assessment. The risk assessment should be reviewed regularly throughout the pregnancy, breastfeeding or 6 months after birth.

Certain working conditions can have an adverse effect on the health and safety of both mother and child, so as an employer you must assess and control the risks, if the hazard or potential hazard cannot be removed. You should discuss the overall work conditions as well as any circumstances regarding the pregnancy that could affect the employee as well as their work. Be sure to also take into account any medical advice the employee has received from their doctor or midwife.

There are several laws and regulations that govern the Health and Safety of pregnant workers including The Management of Health and Safety at Work Regulations 1999, which implements the Pregnant Workers Directive (92/85/EEC) into UK law health and safety law. The Employment Rights Act 1996, The Workplace (Health Safety and Welfare) Regulations and The Equality Act 2010. As well as these, the Government's proposals named in the Employment Rights Bill outlines strengthened maternity rights.

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These legal protections apply to all new and expectant mothers, some transgender men, non-binary individuals, those with variations in sex characteristics and intersex individuals. Employers should check their workers' employment status, but be mindful, even if your workforce involves gig economy, agency and/or temporary workers, you will have health and safety obligations to them.

Ensure employee rights to antenatal care

Employees are entitled to take paid time off to attend antenatal appointments in accordance with their doctor's (health advisor's/midwife's) advice and recommendation. Employers can ask for evidence of these appointments; this includes medical certificates and appointment cards. However, this is with the exception of the employee's first appointment.

Ensure maternity leave and pay entitlements for employees

As an employer you should ensure that all of your employees have a right to statutory maternity leave and if they qualify for statutory maternity pay, ensure that they receive it. If the employee is using shared parental leave, then this should be calculated and the guidance followed accordingly.

Ensure leave and pay for neonatal care

Under The Neonatal Care (Leave and Pay) Act 2023, parents will receive a maximum of 12 weeks leave and pay when their baby undergoes neonatal care. This is set to come into law from April 6th, 2025.

The right to return to work

Employers should ensure that after an employee has taken maternity leave, that they return to the same job. This will depend on the amount of leave that the employee has taken. If they have taken up to 26 weeks, then they have the right to return to the same job, under the same conditions, including pay, contractual terms and conditions, locale and seniority level.

If more than 26 weeks of leave is taken then the employee has the right to return to the same job, unless the employer has reason to no longer be able to offer the exact same role. However, if this is the case then alternative employment must be offered including the same pay, terms, conditions, location and seniority.

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Contact Croner to ensure compliance

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