The law protects you against unfair treatment and dismissal because of your pregnancy. This information sheet looks at what kind of treatment amounts to discrimination and what you can do if you are being discriminated against at work.

**Your rights during pregnancy:**
- you have the right to health and safety protection for you and your baby.
- you have the right to reasonable paid time off for your antenatal care.
- you are protected against unfair treatment and unfair dismissal because of your pregnancy.

All employees have the right to 52 weeks maternity leave and you may qualify for maternity pay. See *Pregnant at work*, for more information on maternity leave, maternity pay and other rights and benefits.

**What is pregnancy discrimination?**

The law says that it is sex discrimination to treat a woman unfavourably on the grounds of her pregnancy or because she wants to take or has taken maternity leave (Equality Act 2010 s.18). To show discrimination a woman does not have to compare herself to how a man might have been treated. She must show that 'but for' her pregnancy she would not have been dismissed or treated unfavourably. All employees, casual workers, agency workers, freelancers and contractors are protected by pregnancy/maternity discrimination law from day one of their employment.

Employees are also protected from detriment or dismissal on the grounds of pregnancy or maternity leave (Employment Rights Act 1996 s99 and Maternity and Parental Leave etc Regulations 1999 reg. 19). This protection applies to employees only from day one of their employment.

This information sheet covers discrimination during pregnancy. For information on your rights during maternity leave and on return to work see the information sheet *Discrimination during maternity leave and on return to work*.

Examples of unfavourable treatment and detrimental treatment include:
- selection for redundancy on the grounds of pregnancy,
- dismissal because of pregnancy,
- refusal of training or promotion opportunities,
- reduction of pay or hours,
- pressure to resign and
- failure to carry out a risk assessment where there are health and safety risks.

The former Equal Opportunities Commission (now the Equalities and Human Rights Commission) conducted a formal investigation into pregnancy discrimination in 2005. Their final report found that the main areas of unfair treatment during pregnancy were denial of a pay increase, refusal of promotion, having to take lower-paid work, being excluded from training and refusal of time-off for ante-natal care. Women involved in the in-depth interviews experienced a wide range of negative treatment at work, ranging from more subtle changes in the attitudes of their colleagues and employers, to unfair selection for redundancy, dismissal, denial of promotion opportunities and sexual and verbal harassment. Many also reported enforced changes to their job during pregnancy.

Further research on pregnancy discrimination has just been published by the Equalities and Human Rights Commission and the Department for Business, Innovation and Skills. The research found that one in none mothers were dismissed, made redundant or treated so badly they felt they had to leave. The report is available at: [http://www.equalityhumanrights.com/managing-pregnancy-and-maternity-workplace](http://www.equalityhumanrights.com/managing-pregnancy-and-maternity-workplace).

**When does pregnancy discrimination apply?**

You are protected against discrimination once your employer knows that you are pregnant. It is entirely up to you to decide when you want to tell your employer and colleagues about your pregnancy. Legally, you do not have to tell your employer about your pregnancy until the 15th week before your baby is due which is the latest date for...
I have been selected for redundancy because I am pregnant.
You may have a claim for unfair dismissal and/or discrimination if you are selected for redundancy because of pregnancy or maternity leave. For full information about your rights, see Redundancy during pregnancy and maternity leave.

Miss H was selected for redundancy from a pool of two administrators. She was offered an alternative part-time post but after a trial period she decided that it was not suitable. Her manager told her that she had been selected for redundancy because she needed to be more flexible and they thought that a part-time job would suit her better as she was having a baby. She brought a claim in a tribunal. The tribunal found that she had not been unfairly dismissed as her employer had followed a proper procedure but she won her claim for discrimination.

My employer has reduced my shifts because of a downturn in work but no-one else has had their shifts reduced and it is going to affect my maternity pay.
You may have a claim for discrimination and detrimental treatment if your employer is cutting your shifts because of your pregnancy or in order to avoid payment of Statutory Maternity Pay (SMP). There will be circumstances in which a genuine reduction in work will mean that an employer will have to reduce the amount of work offered to its employees but this must be done in a fair and non-discriminatory manner. You should speak to your employer about the reduction in your shifts and, if necessary, you can raise a formal grievance using your employer’s grievance procedure.

If your pay is reduced during the calculation period for SMP, approximately eight weeks or two months before the 15th week before your baby is due, your SMP may be lower or you may not qualify for SMP at all (see Maternity Pay Questions for more information on maternity pay). If you do not qualify for SMP you can claim Maternity Allowance from the JobCentre Plus. If you think that your employer is deliberately reducing your workload to avoid having to pay SMP you can make a complaint to your local HM Revenue and Customs officer who will make a formal decision, see Where to go for more help.

If you are unable to resolve the matter, you should seek legal advice. If you make a discrimination claim, you can also claim for loss of maternity pay.

Miss W worked about 13 hours a week (over two to three days) as a maid in a hotel. A roster was drawn up each week. She informed her employer that she was pregnant and took three days off sick. She was rostered to work for two weeks but, thereafter, was not rostered for any more work. The tribunal found that she had been treated less favourably because of her pregnancy. Her employer said that she was not rostered because there was not enough work available but the tribunal found that another employee had been allocated more than her usual contractual hours. Walton v The Nottingham Gateway Hotel Ltd, [2004] ET2600273/04.

I have asked my employer if I can sit down more while I am working but they will not provide a chair.
The Management of Health and Safety at Work Regulations 1999 require employers to carry out a workplace risk assessment if they employ women of childbearing age. You should notify your employer in writing that you are pregnant and your employer must consider the risks and take reasonable action to protect your health and safety. If you are concerned about your health and safety at work, you could discuss it with your midwife or GP and, if necessary ask for a letter to show your employer.

Your employer must look at any aspect of your working conditions that could affect your health and safety or your baby’s. Your employer should take reasonable action to remove any risks or prevent your exposure to risks. If a risk remains, your employer should alter your working hours or...
conditions, such as providing somewhere to sit down or extra rest breaks. If that is not possible you are entitled to suitable alternative work on similar terms and conditions or, if no work exists, you are entitled to suspension on full pay. For more information, see Health and safety during pregnancy and return to work.

If your employer has not dealt with any health and safety issues adequately and you are forced to take sick leave your Statutory Maternity Pay may be reduced. If you do not qualify for SMP at all you should claim Maternity Allowance instead.

Mrs H was a care assistant in a nursing home. Her job involved lifting elderly residents. She informed her employer that she was pregnant and needed a risk assessment. She provided a medical certificate stating that she should avoid heavy lifting. Her employer did not do a risk assessment but offered her a cleaner's job instead. The court decided that failure to do a risk assessment during pregnancy with the risks involved in this type of work was sex discrimination. Hardman v Mallon t/a Orchard Nursing Home [2002] IRLR 516.

My employer has complained about the amount of time off I am taking for my antenatal appointments.

Time off for antenatal care can be a leading cause of resentment amongst colleagues and employers. However, it is important for yours and your baby’s health that you see your medical practitioners at regular intervals so that any problems are picked up as early as possible. The amount of time off you need is a very individual matter and no two pregnancies are the same. It may help to give your employer as much notice as possible of your appointments, try to minimise disruption as much as you can and talk to your employer about how your work will be covered during your absences.

The law says that employees are entitled to reasonable paid time off for their antenatal care. Your employer cannot ask you to take appointments outside working hours. If you work part-time, you are still entitled to time off where your appointments fall during your normal working hours if this is unavoidable. You should do everything possible to minimise disruption to your working day by making appointments at a time that will reduce your absence from work but if you have no control over your appointments you are entitled to take a reasonable amount of time off for your antenatal care.

Antenatal care can include classes providing they are recommended by a registered midwife, nurse or GP as part of your antenatal care. If your employer asks, you must provide proof of pregnancy and proof of the appointment. Your employer cannot ask for proof for the first appointment.

My employer is refusing to pay for antenatal classes?

You are entitled to reasonable paid time off for all antenatal appointments, scans and classes providing they are recommended by a registered medical practitioner as part of your antenatal care. Apart from the first appointment, your employer is entitled to ask for proof of your pregnancy and the appointment e.g. by showing your appointment card.

You are entitled to be paid for time off for your antenatal care. If your employer unreasonably refuses to allow you to take time off for antenatal care or refuses to pay for all or part of your time off you can bring a claim in an employment tribunal under section 57 of the Employment Rights Act 1996. You must bring a claim within three months of the date your employer refused your time off or refused to pay. You should try to resolve the matter first by speaking to your employer and, if necessary, making a complaint in writing using your employer’s grievance procedure. For more information see Dealing with problems at work.

You may also have a claim for pregnancy discrimination if you have been treated unfavourably for taking time off for antenatal care. You should get legal advice, see Where to go for more help.

I have had to take a lot of sick leave during my pregnancy, can my employer dismiss me?

No, it is automatic unfair dismissal and pregnancy discrimination to dismiss a woman for a reason connected to her pregnancy. Your employer should record any pregnancy-related sickness absence separately from any other sickness absence. Pregnancy-related sickness absence should not be taken into account for redundancy or disciplinary matters. For full information on your rights to sick leave and pay, see Sickness during pregnancy and maternity leave.

If you think that your sickness is being caused by your work conditions you should ask your employer for a risk assessment. Your employer should remove any risks to your health and safety and, if necessary, make changes to your working hours or conditions or offer you suitable alternative work.

My employer has reduced my workload since I became pregnant and I feel that I am being sidelined.

Less favourable treatment can include a wide range of behaviour, such as reducing an employee’s workload or refusing certain projects or clients.

If your employer has reduced your workload because of your pregnancy you may have a claim for pregnancy discrimination and detrimental treatment. Your employer may be cutting work for other reasons, for example, a genuine downturn in the work available but you should speak to your employer about the changes you have noticed and, if necessary, you may wish to raise a formal grievance.

In some circumstances, if your employer’s conduct is so bad that you feel unable to continue working, you could resign and claim constructive dismissal but you should get advice first as these can be difficult cases to bring.

A reduction in your work may mean that your pay is reduced during the calculation period.
for Statutory Maternity Pay (SMP), for example, if you receive performance-related pay or are paid by commission. This could result in the amount of your SMP being reduced in the first six weeks week or that you do not earn enough to qualify for it at all. If you do not qualify for SMP, you can claim Maternity Allowance from your local JobCentre Plus. If you think that your employer reduced your work to avoid payment of SMP you should contact your local HM Revenue and Customs Officer for a formal decision. You can claim for loss of SMP in an employment tribunal. For more information, see Maternity pay questions.

Ever since I became pregnant my manager has made my job difficult. What should I do?
Unfortunately many women experience unfavourable treatment after announcing their pregnancy at work. Unfavourable treatment can include a range of behaviour, such as refusing training or promotion, making comments or assumptions or making the job more difficult. Many women who experience discrimination during their pregnancy are reluctant to make a complaint for fear of rocking the boat before their maternity leave or of jeopardising their return to work. However, if you feel that the treatment is related to your pregnancy, you can talk to your HR manager or union representative. If you want to take it further you can raise a grievance with your employer. If you are unable to solve the matter at work you should get legal advice, see Where to go for more help.

Some women experience discrimination during maternity leave or on return to work for example, changes to their job, demotion or refusal of flexible work. There is more information on your rights during maternity leave and on return to work in the information sheet Discrimination during maternity leave and on return to work. You should bear in mind that there are strict time limits for making tribunal claims so you cannot always raise matters that arose during pregnancy at a later stage.

Mrs C advised her line manager of her pregnancy. Her manager began treating her unfavourably throughout her pregnancy, forcing her to work long hours and sidelining her. Mrs C was reluctant to raise a complaint. However, on return from maternity leave, she made a flexible working request which her manager refused. She appealed against the refusal of flexible work and informed HR of the treatment to which she had been subjected during her pregnancy. Her line manager was reprimanded and her flexible working request was granted.

Refusal of a request for flexible work may be grounds for an indirect sex discrimination claim. For more information on flexible work and what to do if your request is refused, see Child-friendly working hours.

What can I do?
If you believe that you have suffered unfavourable treatment as a result of being pregnant, you should obtain legal advice as soon as possible. There are strict time limits for making discrimination and unfair dismissal claims. The tribunal must usually receive a claim within three months less one day. Time limits for some claims can only be extended for very good reasons.

You should ask your employer if they have a grievance procedure and raise a formal grievance. If you still cannot solve the problem, you may wish to start tribunal proceedings to be sure that you do not miss the time limit. You may be able to take the matter to mediation or to negotiate with your employer before your case reaches a tribunal hearing. You must contact ACAS Early Conciliation on 0300 123 11 00 before making a tribunal claim.

If you are dismissed during pregnancy or maternity leave you are entitled to written reasons. You must have worked for your employer for a year to make a claim for ordinary unfair dismissal. If you start a new job after 6 April 2012 you will need to have worked for your employer for two years to claim ordinary unfair dismissal but you can claim discrimination and automatic unfair dismissal on the grounds of pregnancy and maternity leave from day one of your employment.

See the information sheet, Dealing with problems at work, for more on how to negotiate with your employer and how to bring a claim in a tribunal.

Are there any other benefits I can claim?
Once your baby is born you can claim Child Benefit. Families in receipt of child benefit will be subject to a child benefit higher earner charge if one or more parent earns more than £50,000.

Working and non-working families may be able to claim Child Tax Credit and/or Working Tax Credit depending on your family income. For more information and an application form, telephone the Tax Credit Helpline on 0345 300 3900.

If you or your partner are receiving Income Support, income-based Jobseekers Allowance or Child Tax Credit of more than the family element you may be entitled to a Sure Start Maternity Grant of £500 for your first child or first multiple birth (or if there are no other children aged under 16 in your family). Claim on form SF100 (Sure Start), available from Jobcentre Plus offices, from 11 weeks before the baby is due until 3 months after the birth.

See Money for Parents and Babies for more information on benefits. Most of these benefits will gradually be replaced with Universal Credit.

Employment and Support Allowance is payable to people who cannot work because of illness or disability, see https://www.gov.uk/employment-support-allowance/overview employment-support-allowance

Where to go for more help

Maternity Action
Advice on maternity and parental rights and benefits for families
www.maternityaction.org.uk
Helpline 0808 802 0029

ACAS
For advice on employment rights or for Early Conciliation if you are thinking of making a tribunal claim
www.acas.org.uk
Helpline: 0300 123 11 00 (offers telephone interpreting service)

Citizens’ Advice
For information about your rights and to find details of local advice bureau
www.citizensadvice.org.uk
Factsheets available in English, Welsh, Bengali, Gujarati, Punjabi, Urdu and Chinese
The CAB is currently developing a national advice phone service. If you live or work in Wales call 08444 77 20 20. For England, call 08444 111 444 or check your local bureau's contact details as it is not available in all areas yet.

Civil Legal Advice
If you are eligible for legal aid you can get free legal advice on 0345 345 4 345 (offers translation service). To check your eligibility see www.gov.uk/civil-legal-advice

To search for specialist legal advisers or solicitors in your area see find-legal-advice.justice.gov.uk

Equalities and Human Rights Commission (EHRC)
For information and advice about discrimination law
www.equalityhumanrights.com
For information for employees and employers about pregnancy and maternity rights in the workplace see:

Lawyers can get specialist help with discrimination claims from the EHRC Lawyers Referral Helpline 0161 829 8407.

Equality Advisory Support Service
Help and advice on discrimination and human rights

www.equalityadvisoryservice.com
Helpline: 0808 800 0082
Textphone: 0800 800 0084
Mon.- Fri. 9am – 7pm
Sat. 10am – 2pm

Employment Tribunal Public Enquiry Line
For information on bringing a tribunal claim and ET1 application forms
0300 123 1024 England and Wales
0141 354 8574 Scotland
028 9032 7666 Northern Ireland
https://www.gov.uk/courts-tribunals/employment-tribunal

Law Centres Network
To find out if there is a Law Centre in your area telephone 020 3637 1330 or see www.lawcentres.org.uk

GOV.UK
The government’s online information service
www.gov.uk

JobCentre Plus Claim Line
Telephone benefit claims, including Maternity Allowance,
0800 055 6688 Mon.– Fri. 8am – 6pm

Insolvency Service Helpline
What you can claim when your employer goes out of business: www.gov.uk/your-rights-if-your-employer-is-insolvent/claiming-money-owed-to-you
National Insolvency Unit Helpline 0300 678 0015/0017
Companies House 0303 1234 500
Redundancy payments enquiry line 0330 331 0020
Payments of SMP/SAP/SPP/ShPP or Statutory Sick Pay 03000 560 630

Tax Credit Helpline
For information and claims for Child Tax Credit and Working Tax Credit (including help with registered childcare costs) for working and non-working families.
Helpline 0345 300 3900

HM Revenue & Customs
For queries about Statutory Maternity Pay, Statutory Adoption Pay, Statutory Paternity Pay and Statutory Shared Parental Pay:
Employee’s helpline 0300 200 3500
Employer’s helpline 0300 200 3200

For detailed guidance for employers on SMP, SAP, SPP and Statutory Sick Pay see www.gov.uk/government/collections/statutory-pay

Statutory Payments Dispute Team
Claims for Statutory Maternity, Paternity, Shared Parental and Adoption Pay when employer is insolvent or refuses to pay.
Room BP 3202, Benton Park View, Longbenton, Newcastle upon Tyne, NE98 1YS. Tel. No.03000 560 630

Working Families
For information and advice on benefits and rights at work, see www.workingfamilies.org.uk
Helpline 0300 012 0312

Your Employment Settlement Service
For advice and help with settling disputes at work, including 15 minutes free advice, see www.yesslaw.org.uk
Tel. 020 3701 7530/7531

This information sheet was produced in March 2017. It is always important to get up-to-date advice.
More Maternity Action information sheets

Pregnant at work 2017 – a brief guide to your rights to maternity leave and pay
Rights at work for fathers and partners – a brief guide to rights for fathers and partners
Shared parental leave and pay – new rights to share leave and take leave more flexibly
Time off for working parents – rights to maternity leave, parental leave and time off in an emergency
Child friendly working hours – rights to ask for changes in your working hours to fit with your childcare or other caring responsibilities
Money for parents and babies – benefits and tax credits for working and non-working families
Maternity pay questions – how to qualify for Statutory Maternity Pay, Maternity Allowance and Employment and Support Allowance.
Rights for parents with more than one job – rights for parents working more than one job
Redundancy during pregnancy and maternity leave – your rights if you are made redundant
Keeping in touch during leave – a guide to working KIT days during maternity and adoption leave and SPLIT days during shared parental leave
Dealing with problems at work – a guide for new parents and parents-to-be on how to deal with problems at work
Pregnancy discrimination – what is pregnancy discrimination and what you can do about it
Discrimination during maternity leave – what you can do about discrimination during maternity leave
Pregnant during maternity leave – your rights if you become pregnant again whilst still on maternity leave
Resigning during pregnancy and maternity leave – what to do if you wish to resign

Breastfeeding on return to work – your rights if you wish to continue breastfeeding on return to work
Sickness during pregnancy and maternity leave – rights and benefits during sick leave
Health and safety during pregnancy and on return to work – health and safety protection for new and expectant mothers
Breastfeeding in public places – your right to breastfeed when you are out and about
Agency workers – maternity and parental rights and benefits
Apprentices – maternity and parental rights and benefits
Adoption leave and pay – rights for parents
Time off and pay for parents in surrogacy arrangements

Polish language information – rights at work for mothers, fathers and partners.
Spanish language information – your rights at work
Maternity rights for migrants – information for EU nationals and other migrants
Maternity rights for refugees, asylum seekers, refused asylum seekers and women with no recourse to public funds – information sheets for migrants subject to immigration control
Zero hours contracts – rights to time off and pay for parents on zero hours contracts
Premature births – maternity and parental rights when your baby is born early
Miscarriage, stillbirth and neonatal death – rights to time off and pay if you have suffered a miscarriage, stillbirth or your baby does not survive

Available at www.maternityaction.org.uk