



## Pregnancy and Maternity - Protected Characteristic

### PREGNANCY AND MATERNITY

#### What is Pregnancy and Maternity Discrimination

Pregnancy and Maternity discrimination is when you are treated unfavourably (differently) because you are pregnant, breastfeeding or you have given birth.

**Pregnancy** is the condition of being pregnant or expecting a baby.

**Maternity** refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding.

The treatment could be a one-off action or as a result of a rule or policy. It doesn't have to be intentional to be unlawful.

#### Pregnancy and Maternity discrimination outside of work

The Equality Act says:

- you must not be discriminated against by being treated unfavourably because of pregnancy.
- you must not be discriminated against by being treated unfavourably because you have given birth in the previous 26 weeks.
- being treated unfavourably because you have given birth includes being treated unfavourably because you are breast-feeding.
- that if you have a stillbirth after 24 weeks of pregnancy, you are protected from discrimination for 26 weeks after the stillbirth.

If you have experienced discrimination, contact EQUIP for free, impartial advice and support:

**Phone Number**  
0330 135 6606

**E-mail Address**  
advice@equipequality.org.uk

**Website**  
[www.equipequality.org.uk](http://www.equipequality.org.uk)





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### Pregnancy and maternity discrimination at work

The Equality Act says you must not be discriminated against during the protected period because:

- of your pregnancy, or
- because of illness suffered by you as a result of your pregnancy
- you are a woman on compulsory maternity leave
- you are exercising or seeking to exercise your right to ordinary or additional maternity leave.

The Equality Act protects you from discrimination from when you become pregnant until:

- your right to maternity leave ends and you return to work, or
- if you do not have the right to maternity leave, 2 weeks after the child is born.

This period of time is called the **protected period**.

You can also choose to end your maternity leave or pay from two weeks after the birth, so that you can share the remaining leave with the child's father or your partner. This is called **shared parental leave**.

Employees who take shared parental leave have right to return to the same job, (or, if this is not possible, a suitable alternative job after leave of more than 26 weeks).

### Returning to work after leave

You are entitled to return to the same job during or at the end of 26 weeks (ordinary maternity leave). If you return during or at the end of more than 26 weeks (additional maternity leave) and your employer can show it is not reasonably practicable for you to return to the same job, you must be offered a suitable alternative job.

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### Unlawful Maternity Discrimination

Unlawful maternity discrimination is discrimination that relates to an employee's maternity leave.

There are three types of maternity leave:

- **compulsory maternity leave:** two weeks immediately after the birth, which all employees entitled to maternity leave must take.
- **ordinary maternity leave:** the first 26 weeks of leave, including the compulsory maternity leave period.
- **additional maternity leave:** a further 26 weeks of leave.

It is unlawful maternity discrimination if someone treats you unfavourably because:

- you are on compulsory maternity leave.
- you are taking or are trying to take ordinary or additional maternity leave.
- you have taken or tried to take ordinary or additional maternity leave.

### Who is protected from maternity discrimination?

Only employees are protected from being treated unfavourably for taking ordinary and additional maternity leave.

Because employees are required to take compulsory maternity leave, only employees can claim maternity discrimination if treated unfavourably while on compulsory maternity leave.

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### **When are you protected from maternity discrimination?**

It is maternity discrimination to treat you unfavourably when you are on compulsory maternity leave.

It is maternity discrimination if you are treated unfavourable because of your ordinary or additional maternity leave, even if the treatment happens after that maternity leave has come to an end.

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