



Redundancy ban to be considered for new mothers

Annie Makoff 26 Jan 2017  12 comments

Women and equalities committee report calls on government to strengthen protection from discrimination

Pregnant women and new mothers could be entitled to additional protection from redundancy if new government proposals go ahead.

A redundancy ban, whereby firms would be unable to make women redundant during pregnancy, maternity leave or for six months after they return to work, is being considered in response to the [women and equalities committee's August report on workplace pregnancy discrimination](#).

The report called on the government to follow Germany's lead in granting more protections for women who were pregnant or had returned from maternity leave, after research conducted as part of the report revealed that cases of pregnancy-related discrimination had doubled in the last decade.

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with current figures standing at 54,000.

Emma Burrows, partner at law firm Trowers & Hamlins, warned that a redundancy ban may make it difficult for companies that were already undergoing redundancy and restructuring programmes. She said: “This proposal to give women better protection from redundancy, while laudable, does however restrict the ability of employers to carry out fair redundancy exercises treating all employees equally, when they must take into account additional protection for mothers. A strengthening of these rights could mean that employers will have to further manage conflict in the workplace.”

David Southall, employment law consultant at ELAS, said: “Trying to legislate for what the report classes as ‘bad treatment’, which falls outside of current legislation, may be a fraught exercise. Rights may be described in such vague terms as to be meaningless, or so subjective that employers will not know where they stand.”

The government and EHRC-commissioned report, which was published in August last year, made a series of recommendations including strengthening existing protections for pregnant women and ensuring women and employers understand their rights and obligations through improved access to information.

[Responding to the report](#), Margot James MP said the government was making “good progress” towards implementing the recommendations and pledged a continued commitment to tackling pregnancy and maternity-related discrimination, but insisted there was “strong” legal framework already in place.

“The fact that women face discrimination in the workplace as a result of pregnancy or for taking maternity leave is wholly unacceptable and unlawful. It is shocking that some employers still behave in this way and alienate a key group of their workforce,” she said.

“We are determined to build an economy that works for everyone. This includes ensuring that pregnant women and new mothers are supported in work, where they have made that choice, and that they are treated fairly.”

But Maria Miller, chair of the committee, described the government’s response as “a missed opportunity” to display real commitment and found there was a “worrying enforcement gap” with the

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current law.

She said: “The government’s own research, done in collaboration with the [Equality and Human Rights Commission](#), has shown not only that pregnancy and maternity discrimination is a significant problem, but a problem that is getting worse. This is why it is so disappointing that the government is not showing more energy and resolve in tackling it.”

Sarah Jackson OBE, chief executive of Working Families, added: “The government must make it clear that a six-month time limit for pregnancy and maternity employment tribunal claims should be the norm. The onus for asking for an extension cannot rest with women who have been discriminated against.”

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Amy

14 days ago

This is taking things way too far. I truly believe in the right person for the job approach and if the role is redundant, it is redundant. This kind of ruling could cripple a small business. Agree with the comments that this is sex discrimination - where's the protection for new fathers?? Greater flexibility and support returning to work would be more beneficial.



Denise Reece

14 days ago

Ridiculous !!

What about the rights of those people who chose not to or cannot have children. The legislation is not 'Family Friendly' it is 'non-family discriminatory'.

Employees who do not have children are currently heavily discriminated against due to taking up to additional work load when Parents go off. For hours, days or months.

A fair playing field is just that. All Employees have choice and if they chose to have a career break they should not get ADDITIONAL protection.

The time to stop this overt discrimination is now. Enough is enough !



Claire

15 days ago

I know very few women who are calling for this law...what we need is more legislation around flexible working in the first year of returning to work after a baby (mum's and dads). I am the hardest working person I know, but I know that the first few months after returning to work just need more flexibility. Most women can return full time if they are given a little more time for them and their children to adjust.



Stephen Booth

15 days ago

Blatant sexual and age discrimination, could also possibly bring infertility under the banner of disability for the purpose of the equalities act (may be a bit of a stretch but I'd enjoy arguing it as being in the spirit of the act at an unfair dismissal). Men cannot get pregnant so cannot enjoy the same protection therefore are subject to indirect discrimination, women beyond a certain age cannot get pregnant without significant medical intervention and are likely to suffer health problems if they do so cannot realistically enjoy the same protection therefore are subject to indirect discrimination, women who unable to conceive or carry a pregnancy due to illness, injury or congenital problems are not able to enjoy the same protection so therefore are subject to indirect discrimination.

I think a better solution would be to require firms have a demonstrably impartial redundancy selection process that can be competently administered to ensure that redundancy selection is carried out without discriminating against pregnant women and new mothers, if they fail to do so then the senior management get the big stick. Redundancy selection should, like recruitment selection, be solely based on ability to do the work (occupational tests and interviews) and ability to do the job (attendance, performance, capability and disciplinary records), mitigated by any reasonable adjustments. Excluding someone from redundancy selection because they have chosen to become pregnant is as discriminatory as selecting them for redundancy because they chose to become pregnant.

feedback



15 days ago

New mothers on maternity leave, or returning to work have always been

Alison Curtis - MCIPD

vulnerable to redundancy but they are not the only women at risk. Older mothers in their 50s are increasingly vulnerable to redundancy during a reorganisation or restructure, especially if they work part time. They are also unlikely to work again if selected for redundancy due to age discrimination in the recruitment process and a shortage of suitable part time jobs at the point of hire. A younger mother is more likely to find work again, (or retrain) after a career break, whereas a redundancy for an older woman is a very serious situation and can bring a career to an end. I was made redundant from my job share post 4 years ago and haven't managed to find suitable part time work in my mid to late 50s.



Hugo Oliveira

15 days ago

This has been in force in Brazil for a few decades and they never looked back.



David

15 days ago

No protection for new fathers? Talk about blatant sex discrimination. Then again, the consequence is that women will continue to take on caring roles, leave the work place and earn less over their careers. Precisely opposite to what is wanted and desired.



Stuart

15 days ago

Whilst I understand that pregnant mothers may feel like they are being discriminated against this is not (always) the case. As an example we recently made a marketing associate on maternity leave redundant as regulatory changes post the start of her maternity meant that her role was no longer viable. There was literally nothing else in the Company for her to do as her skills lay in her marketing and language skills (specific to country).

This type of decision could lead to those unable to get pregnant or not wishing to, not to mention male colleagues, filing discrimination complaints if they are made redundant instead of someone on maternity leave and it makes no business sense at all. Extending it to shared won't stop such claims either.

Whatever happened to the right person for the job?



Sharon Smith

15 days ago

Some new mothers may prefer to take redundancy if it is available in a restructure, so presumably this legislation, if introduced, would prevent this. Seems unfair either way to me.



15 days ago

Additional protections aren't the way to go, proper enforcement and stiffer

Mark Gilligan

penalties for those that breach current legislation is needed. Having legislation in place but poorly enforced for whatever reason renders the legislation its self ineffective, to just pile on even more legislation wont work.



Marilyn Collett

15 days ago

Shame it hasnt been brought in before now, as I was a victim of this and was made redundant whilst 3 months pregnant, which made it difficult for me to find alternative employment whilst pregnant and consequently the working of so many weeks before the birth to enable me to claim maternity payments. I found myself having to take anything I could get from an agency on a temporary basis which caused me stress, not ideal whilst pregnant. Women need this protection within the workplace.



David

15 days ago

Here we go again, more anti male discrimination.

No protection for new fathers from redundancy? The laugh of it is though is that yet again, women are being pushed into caring roles leading to greater withdrawl from the labour force in comparison to their male peers.

So extending the earnings gap, or holiday gap depending on your viewpoint.

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