

New and Expectant Mothers: Management Briefing

Year on year more and more mothers are choosing to go back to work after having a baby. Employers need to understand the key risks that need to be controlled to ensure a safe working environment for new and expectant mothers.

Key Risk Factors

Risks to new and expectant mothers include:

- physical agents: movements and postures, manual handling, shocks and vibrations, noise, radiation (ionising and non-ionising), work in compressed air (for example in pressurised construction works) diving and underground mining work
- biological agents: infectious diseases
- chemical agents: toxic chemicals, mercury, antimitotic (cytotoxic) drugs, pesticides, carbon monoxide, lead
- working conditions: lack of facilities (including rest rooms), mental and physical fatigue, working hours, stress (including post-natal depression), passive smoking, temperature, working with visual display units (VDUs), working alone, working at height, travelling, violence, personal protective equipment, nutrition.

Key Control Measures

Control measures include:

- ensuring lighter duties not requiring excessive physical exertion
- ensuring access to refreshments and regular short breaks
- ensure seating is available where possible
- discussing and agreeing the volume of work and the pace of work
- agreeing flexible rotas
- agreeing flexible work allocation
- ensuring access to suitable and sufficient personal protective equipment.

Recommendations for Employers

- Ensure that any risks to women of a child bearing age are assessed and managed
- create a policy for new and expectant mothers
- assess the risks (individually) to new and expectant mothers, and put control measures in place to manage the risk effectively. If risks cannot be managed then a suitable alternative (at the same rate of pay) should be

Key definitions:

- **New or expectant mother:** a person who is pregnant, has had a baby in the last six months, or is breastfeeding.
- **Maternity:** the period during pregnancy and shortly after childbirth.
- **Paternity:** the state of being someone's father.
- **Antenatal/prenatal:** before birth, during or relating to pregnancy.
- **Postnatal:** of, relating to, characteristic of, or denoting the period after childbirth.
- **Childbearing age:** is usually defined as being between 15 and 44 although some organisations define it as between 15 and 49.
- **Postnatal depression:** a type of depression some women experience after having a baby.
- **Miscarriage:** a spontaneous loss of pregnancy before 24 weeks' gestation.
- **Stillbirth:** when a baby is born dead after 24 weeks of pregnancy.

Legal duties:

- **Management of Health and Safety at Work Regulations 1999:** the Regulations implement the health and safety requirements of the Pregnant Workers Directive (92/85/EEC) into UK law. The most relevant health and safety requirements relating to this topic are found in Regulations 16 to 18.
- **Workplace (Health, Safety and Welfare) Regulations 1992:** the Regulations require employers to provide suitable rest facilities for workers who are pregnant or breastfeeding. Preferably these would be located close to other conveniences like the toilets and have facilities for the new or expectant mother to lie down.
- **Equality Act 2010:** any breach of health and safety legislation in relation to new and expectant mothers is considered automatic sex discrimination.

found. If neither of these are possible - then the woman should be suspended on full pay, to protect her and her baby

- arrange a time for an induction or meeting to discuss risks with the new or expectant mothers and to hear any of her concerns
- ensure that risk assessments are kept under review to reflect the stages of pregnancy and after birth
- make space for a rest facility or breast pumping area (it should be quiet, clean and comfortable)
- give new and expectant mothers as much information to help them understand any processes.

Did you know?

- There were 695,233 live births in England and Wales in 2015.
- Expectant mothers have the right to paid time off for antenatal care – including antenatal or parenting classes if they have been recommended by a doctor or midwife.
- Certain activities at work can put an unborn child or the pregnant worker at greater risk than other workers.

Case law

New Southern Railway Ltd v Quinn

Mrs Quinn accepted a promotion at work with a salary increase, at the same time she became pregnant. Her manager assessed the risks to her but felt these risk could be reduced to an acceptable standard.

After three months it was decided that, in fact, the risks were too high and she should take her original post back, which would result in a cut in salary.

The tribunal concluded that Mrs. Quinn had been discriminated against on the grounds of her sex and the demotion and salary reduction amounted to a fundamental breach of her contract and therefore constituted an unfair dismissal as well as representing an unlawful deduction of her wages.

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