

Make Work Pay: Enhanced dismissal protections for pregnant women and new mothers – UNISON response to UK government consultation

Introduction

UNISON is the UK's largest public service trade union with 1.3 million members, 1 million of them women. Our members are people working in the public services and private contractors providing public services, including essential utilities. They include frontline staff and managers working in local authorities, the NHS, the police service, colleges and schools, the electricity, gas and water industries, transport and the voluntary sector. Many of them are part time and low paid, working in traditionally low paid sectors like care, catering, security and cleaning.

UNISON is committed to achieving equality in workplaces, in the union, and across society. Equality is a high priority for UNISON in our negotiating and campaigning work.

We welcome this government's commitment to equality as set out in its Make Work Pay plan, the Employment Rights Bill and the forthcoming Race and Disability (equalities) Bill. We are pleased to respond to the consultation on enhanced dismissal protections for pregnant women and new mothers.

Questions

Question 7: In your view, how common are concerns or complaints related to unfair dismissal or treatment during pregnancy?

A. Very common.

B. Common.

C. Occasional.

D. Rare.

E. Non-existent.

F. Don't know.

If relevant, please provide any further detail that supports your answer. If you are aware of any direct evidence of discrimination and unfair treatment, please provide a summary of that evidence or a link to where it is published.

We have carried out an analysis of the different types of maternity and pregnancy related discrimination cases that have resulted in Tribunal claims during the past 12-18 months for UNISON members.

Issues include failures to carry out adequate risk assessments when pregnant employees inform their employers of their pregnancies, failure to pay SMP, failure to allow employees who have taken maternity leave to return to a job that's commensurate with their original role, failure to make reasonable adjustments during pregnancy to allow employees to remain at work, unfair selection for redundancy, and automatic unfair dismissal during maternity leave. We

understand these examples of discrimination are typical for pregnant women and new mums.

Question 8: In your view, how common are concerns or complaints related to unfair dismissal or treatment during new motherhood (i.e. on Maternity Leave or when recently returned to work)?

A. Very common.

B. Common.

C. Occasional.

D. Rare.

E. Non-existent.

F. Don't know.

In February 2025 the organisation Pregnant then Screwed published new research which found that up to 74,000 women lose their job every year for getting pregnant or taking maternity leave. The figure has increased from 54,000 a decade ago.

The survey of 35,800 parents found that 12% of women are sacked, constructively dismissed or made redundant whilst pregnant, on maternity leave or within a year of returning from maternity leave. The report estimated that this could mean as many as 74,000 women are forced to leave their job every year.

Half of pregnant women, those on maternity leave, and those returning from maternity leave said they had a negative experience at work, leading one in five to quit their job, according to the research.

A third of women said they were side-lined or demoted whilst pregnant, on maternity leave, or when they return from maternity leave, but only 2% of women who experience discrimination took a claim to a tribunal.

Question 9: In general, when do you think pregnant women and new mothers are at most risk of unfair treatment? (Please select all that apply)

A. During pregnancy.

B. During Maternity Leave.

C. Soon after they have returned to work (e.g. within six months of returning).

D. Sometime after they have returned to work (e.g. after six months of returning).

E. Other.

F. Don't know.

In July 2025, UNISON carried out a survey asking our members about their experience of parental leave and pay to inform our response to this government consultation. The survey received 7,796 responses from UNISON members of childbearing age across various sectors and regions who had taken maternity, paternity, adoption, parental, shared parental or neonatal leave between January 2020 and July 2025.

An overwhelming number of members report that either they or their partner's (we also received answers from many new fathers) experience mental health and physical health implications, following childbirth. Many suffer with postpartum depression and post-natal depression that can last months or even years after childbirth. Members report that due to low rates of statutory maternity pay and anxiety around finances, they are often required to return to work early and before they have properly recovered from the experience of childbirth. 73% of members confirmed that they were not emotionally prepared to return to work. These issues make new mums particularly vulnerable when returning to work after maternity leave.

Common problems that occur following the return from maternity leave, is that employers refuse to allow members to return to their original role or a role that is commensurate with their original role. Tasks maybe allocated to their maternity leave cover or others which results in a perceived change to status and / or seniority.

Also, new parents need to adapt to their new lives as carers and are required to make flexible working requests. The approach to such requests are mixed, with some employers refusing to accommodate such requests. 17% of members in our survey said they did not feel supported by their employers, following their return to work.

Question 10: In general, when do you think pregnant women and new mothers are at most risk of dismissal? (Please select all that apply)

A. During pregnancy.

B. During Maternity Leave.

C. Soon after they have returned to work (e.g. within six months of returning).

D. Sometime after they have returned to work (e.g. after six months of returning).

E. Other.

F. Don't know.

Following an analysis of the legal claims that have been pursued on behalf of members, pregnant women and new mothers are at risk of dismissal as soon as they inform their employers of their pregnancy. Poor treatment by employers takes varying forms including unfair selection for redundancy, fundamental changes to roles, failures to carry out risk assessments and failures to make reasonable adjustments. All of these issues can contribute to dismissals and / or constructive dismissals of pregnant employees and new mums.

There is some confusion around Regulation 16 of the Management of Health & Safety at Work Regulations 1999 and what employers are required to do in terms of assessing risk for women of childbearing age. Instead, this could be enhanced with a legal obligation for an employer to carry out a bespoke risk assessment once they are notified of the pregnancy.

Migrant workers who lose their jobs when pregnant face particular challenges, including loss of income, risk of homelessness, barriers to healthcare access, and most significantly, potential changes to their immigration status. This situation is often exacerbated by fear of exploitation and a lack of awareness of their legal rights.

Question 11: What impact have the 2023/24 extended redundancy protections for pregnant women and new mothers had on how pregnant women and new mothers are treated in the workplace?

- A. **Positive.**
- B. Negative.
- C. Negligible.
- D. Don't know.

If relevant, please explain your answer and provide any supportive data/evidence.

Although it is still early days to understand the impact the additional protections have had, the extension of the protected period to 18 months after the birth of the child (or placement of an adopted child) is a welcome change. This provides further protections to new parents at a vulnerable time and is likely to cover the whole maternity leave period plus a period after the new mum returns to work. UNISON would like to see a further extension of the protected period to ensure new mums receive further support and protection, following their return to work. In our recent survey, an overwhelming number of members report that they suffered with mental and physical health problems following childbirth. They also report having to return to work sooner than they would like to, due to financial pressures and low levels of statutory maternity and paternity pay (we are one of the lowest in Europe). 73% of members surveyed said they were not emotionally prepared to return to work.

It is often the case that when returning to work, new mums maybe required to return to an alternative role (that should be commensurate with their original role) or their original role may have been modified. UNISON would like to see the protected period extended to a minimum of 12 months following the return to work of a new mum, to provide extra protection during this vulnerable period of time and to allow time for the implications of any modifications to roles to be fully understood and agreed between the employee and the employer. It would also allow a period for new mums to adjust to balancing their caring roles with working life whilst continuing to recover from childbirth.

Question 12: What kind of test should be used to decide whether a pregnant woman or new mother was fairly dismissed during the protected period?

- A. Replace the current 'range of reasonable responses' test for fairness with a new stricter standard that employers must meet, alongside proving a fair reason.
- B. Narrow the scope of the existing five fair reasons, and/or remove some of

them altogether.

C. Other

D. Don't know.

If relevant, please explain your answer.

UNISON believes that the scope for dismissing a pregnant employee or new mum during the protected period should be much more limited. There is much research to show that pregnant women and new mums feel compelled to leave the workplace due to negative treatment by employers and managers. Many do not bring tribunal claims as they are unaware that they have the right to do so and/or they do not want the added stress of pursuing a claim at this vulnerable time.

Any new framework needs to be simple and easy to understand for both employers (particularly small businesses that may not have the benefit of HR departments) and employees.

One option could be that throughout the protected period, the burden of proof should be placed on the employer to not only show that the reason for dismissal is a potentially fair reason but also, that the fair reason is completely unconnected with the pregnancy or fact that the mother has taken maternity leave. If a dismissal takes place during the protected period, there could be a rebuttable presumption that dismissal is for a reason connected to the pregnancy or the fact the mother has taken maternity leave. The employer would need to provide sufficient and compelling evidence to show there was a genuine reason for dismissal that was completely unconnected to the pregnancy and / or maternity leave period. If there is any potential indication – even if only one in a series of reasons, that the dismissal was connected, then the employee should succeed in a claim for automatic unfair dismissal.

For example – if dismissal was due to performance, the employer would need to show that this was something that had been raised by the employer without delay and potentially (if relevant) before the protected period, if performance concerns had been identified prior to this point. If performance issues had not been raised prior to the start of the protected period, and were only raised during the protected period, there would be a presumption that the employer dismissed the employee for a reason related to her pregnancy and / or taking maternity leave. Statutory guidance could be provided to set out standards, principles and examples of evidence that would be required.

Another suggested requirement could be for employers to report to a separate regulatory body when they dismiss an employee during their protected period – possibly an arm of the Fair Work Agency (FWA). This could enable the FWA to collect valuable data and enable them to monitor dismissals during the protected period. It would also enable them to take any enforcement action, rather than relying on the individual to take individual tribunal proceedings, which new mums are often reluctant to do. This would also level the playing field for all employers.

A regulatory body would need to be properly resourced, and relevant officers would need to be adequately trained.

See further responses to other questions relating to the potentially fair reasons for dismissal.

Question 13: If 'A' to question 12, what should that new test be? (Please select all that apply)

- A. Continuing the employment of the pregnant woman or new mother would have a significantly detrimental effect on the business.
- B. Continuing the employment of the pregnant woman or new mother poses a health and safety risk to customers, staff, or the public.
- C. Continuing the employment of the pregnant woman or new mother has a serious negative impact on the wellbeing of others.
- D. Other.**
- E. Don't know.

If relevant, please explain your answer.

Please see response at Question 12.

Question 14: Thinking about the fictional examples above - and any personal or professional experience you may have - when do you think it should be possible to dismiss a pregnant woman or new mother on grounds of conduct? (Please select all that apply)

- A. Employers should be able to dismiss them fairly for any kind of misconduct; the rules shouldn't be narrowed.
- B. They should be dismissed if they have committed an act of gross misconduct (e.g. theft, violence). - very narrow argument for serious gross misconduct
- C. They should be dismissed if their continued employment poses a health and safety risk to customers, staff, or the public.
- D. They should be dismissed if their continued employment has a serious negative impact on the wellbeing of others.
- E. They should be dismissed if their continued employment causes significant harm to the business.
- F. Other – please specify.**
- G. Don't know.

If relevant, please explain your answer.

UNISON supports this consultation and the aim to create better protections for pregnant women and new mothers. We have observed that often potentially fair reasons such as misconduct and capability can be manipulated by employers to dismiss employees when they disclose their pregnancy, during their maternity leave or when they have returned and are adjusting to being new mothers and returning to the workplace.

UNISON recommends that if misconduct is kept as a potentially fair reason for dismissal, the test during the protected period should be more narrowly defined to only allow dismissal for acts of gross misconduct such as theft, fraud or violence as suggested by the fictional examples within the consultation. This narrower exception then minimises the risk that employers may try to frame struggles at work due to pregnancy or becoming a new mother as misconduct. For example, if the misconduct that the woman is accused of is poor timekeeping which has occurred on a number of occasions. This could be related to morning sickness, struggling with the commute whilst pregnant, caring for an unwell newborn, organising childcare arrangements after maternity leave or other conditions related to pregnancy. A change in the legislation should therefore consider this to ensure that the misconduct ground cannot be manipulated and used against pregnant women or new mothers.

As stated above, UNISON would also advocate for the burden of proof to be placed on the employer rather than the employee if a dismissal takes place during the protected period. This shift in the burden would see a rebuttable presumption that requires employers to prove that the dismissal was for a genuine legitimate reason that is not connected to maternity or pregnancy. We would also advocate for clear statutory guidance to accompany these changes. We would also recommend including best practice within this statutory guidance to encourage employers to take action to support the individual first before immediately resorting to a disciplinary process and dismissal. The employer must consider all alternative options before taking the decision to dismiss.

In addition, the employer should be required to report to a regulatory body such as the Fair Work Agency, if they are seeking to dismiss an employee during their protected period – see above for further details.

Question 15: Thinking about the fictional examples above - and any personal or professional experience you may have - when do you think it should be possible to dismiss a pregnant woman or new mother fairly on grounds of capability? (Please select all that apply)

- A. Employers should be able to dismiss them fairly for any kind of capability issue; the rules shouldn't be narrowed.
- B. Employers should still be able to dismiss fairly on capability grounds, but only if there's no suitable alternative role available, or one was offered and turned down.
- C. Dismissal should be allowed if continuing employment would seriously harm the business.
- D. Dismissal should be allowed if their continued employment poses a health and safety risk to customers, staff, or the public.
- E. Dismissal should be allowed if their continued employment has a serious negative impact on the wellbeing of others.
- F. Dismissal should be allowed if the employer can clearly show the employee

won't be able to do the job after the protected period ends.

G. Other - please specify.

H. Capability should not be a fair reason for dismissal during the protected period.

I. Don't know.

If relevant, please explain your answer.

As explained above, some potentially fair reasons such as capability, have in the past been used by employers to dismiss pregnant women and new mothers. Evidence suggests that it is often the case that only when a woman informs her employer of her pregnancy that issues around performance and capability are raised.

UNISON would advocate for the removal of capability as a potentially fair reason for dismissal altogether; or for it to be limited to specific and narrowly defined cases; during the protected period. In our experience there are two types of capability cases, the first is long term or intermittent absence over a long period. The other type is performance related and focuses on the individual's ability to do that specific job.

We would argue that all other alternatives to dismissal should be explored such as suspension on full pay or a transfer to a temporary alternative role before an employer takes the decision to dismiss on the grounds of capability. An employer is also obliged to carefully consider whether the performance or capability issues are in any way linked to the pregnancy or maternity leave period, if for example an individual has a rare complication due to pregnancy or when they return to work which could be classed as a health and safety concern.

UNISON would argue that employers should be looking for all other alternatives to dismissal. Therefore, it benefits both employees and employers to have an approach where alternatives are considered before resorting to dismissal.

Many women can often feel extremely vulnerable when they return to work after maternity leave. Consequently, we would also advocate for clear guidance on how to support employees when they return to work after maternity leave. There should be guidance encouraging flexibility that assists women when returning to work, ensuring that employers are more proactive, ensuring inclusivity and understanding.

Finally, we advocate for employers being obliged to report to a regulatory body if they decide to dismiss an employee for capability during her protected period – see above for further details

Question 16: Thinking about the fictional examples above - and any personal or professional experience you may have - when do you think it should be possible to dismiss a pregnant woman or new mother fairly on grounds of

redundancy during the protected period? (Please select all that apply)

A. Employers should be able to dismiss them fairly for any kind of redundancy, as long as they've been offered a suitable alternative vacancy if there is one; the rules shouldn't be narrowed.

B. An employer should still be able to dismiss on redundancy grounds, where there is no suitable alternative vacancy, and where terminating her employment would mitigate any financial difficulties that were affecting – or were likely to affect in the immediate future – the employer's ability to continue the business (or to perform its statutory functions, if it is a public sector employer with statutory duties).

C. Employers should still be able to dismiss on redundancy grounds where the business/organisation ceases to exist and the employee has been offered any suitable alternative vacancy available with the employer, or an associated employer.

D. Other - please specify.

E. Don't know.

If relevant, please explain your answer.

UNISON advocates for a stricter and narrower test which only allows for redundancy as a potentially fair reason where the employer can prove that the employer is in dire financial straits and if the employer's business could not continue as a going concern without the redundancy exercise. As suggested, this test could mirror the test set out in the provisions on fire and rehire situations with the new Employment Rights Act 2025 ensuring there is consistency when discussing which measures an employer can take when suffering significant financial hardship.

The statutory protection set out in Regulation 10 of the Maternity and Parental leave Regulations 1999, does not go far enough. Employers have proved themselves to be adept at getting around the obligations provided for in Regulation 10.

Dismissal on the grounds of redundancy during the protected period should be limited to business closures and/or workplace closures and/or relocations. Should an employer carry out a re-organisation, they must always prioritise a role for a pregnant employee or new mum if it takes place during the protected period. Only if the employee unreasonably refuses the role, should redundancy be a consideration.

Finally, we advocate for employers being obliged to report to a regulatory body if they decide to dismiss an employee for redundancy during her protected period – see above for further details

Question 17: Thinking about the explanation above - and any personal or professional experience you may have - when do you think it should be possible to dismiss a pregnant woman or new mother fairly on grounds of

statutory prohibition during the protected period? (Please select all that apply)

A. Employers should be able to dismiss them fairly for any kind of statutory prohibition issue; the rules shouldn't be narrowed.

B. Employers should still be able to dismiss on statutory prohibition grounds, but only if there's no suitable alternative role available, or one was offered and turned down.

C. Other - please specify.

D. Don't know.

If relevant, please explain your answer.

UNISON considers that statutory prohibitions are often used as an excuse by employers and therefore statutory prohibitions should be construed narrowly if they are admitted as a fair reason for dismissal during the protected period.

UNISON would also like to draw the government's attention to the experience of migrant workers when considering this question - a significant number are UNISON members. At present, there is no deterrent or risk to the employer if they decide to dismiss pregnant workers by stating that they are not willing to renew their visas. There is currently no route or support from the Government for migrant workers facing pregnancy or maternity discrimination in this fashion. We have had members who have disclosed their pregnancy and then had shifts reduced or completely removed, as well as members who are pregnant and are due to go on maternity leave but fear their employer removing sponsorship or deciding not to renew their visa if they take this time off to recover from childbirth and look after their newborn. We have also had members contact us when they are on maternity leave, and already in an extremely vulnerable position, who say their employer has informed them they are not renewing their visa.

UNISON is advocating for a holistic approach which offers enhanced protections for all women who may be discriminated against or taken advantage of during this very vulnerable time in their lives, including migrant workers.

UNISON is calling for a sector wide visa scheme so that individual employers do not have the power to control and coerce pregnant women and new mothers. They should receive the protections that are supposed to be available to them without fearing removal of sponsorship or facing the possibility that their visa will not be renewed. We can appreciate that this is an extensive but much needed task to undertake. Therefore, we suggest that in the interim, the Home Office provides discretionary protection to migrant workers during the protected period to ensure that their employers don't penalise them by removing their visa. This discretionary protection should not be reflected as a removal from the skilled worker route to ensure that women experiencing this kind of discrimination do not lose important transitional protections. This discretionary protection should also take into account pregnancy related sickness when the individual is working or returns to work after maternity leave.

These protections could be provided by the Fair Work Agency. If this body investigated the issues we have highlighted above to enhance protections for pregnant women and new mothers, it would also ensure that the burden of holding employers accountable was not left to an individual who is already in an extremely vulnerable position. Litigation puts more pressure onto individuals in highly pressurised situations and can be overwhelming.

The Fair Work Agency could hold employers accountable for unethical working practices such as removal of visas due to pregnancy. However, we would emphasise that this body must be adequately financed and resourced to ensure that it can actively monitor dismissals during the protected period and can therefore act as a substantial deterrent to these employers.

Question 18: Thinking about the explanation above - and any personal or professional experience you may have - when do you think it should be possible to dismiss a pregnant woman or new mother on grounds of SOSR during the protected period? (Please select all that apply)

A. Employers should be able to dismiss them fairly for any kind of SOSR issue; the rules shouldn't be narrowed.

B. Employers should still be able to dismiss on SOSR grounds, but only if there's no suitable alternative role available, or one was offered and turned down.

C. Dismissal should be allowed if continuing employment would seriously harm the business.

D. Dismissal should be allowed if their continued employment poses a health and safety risk to customers, staff, or the public.

E. Dismissal should be allowed if their continued employment has a serious negative impact on the wellbeing of others.

F. Other - please specify.

G. SOSR should not be a fair reason for dismissal during the protected period.

H. Don't know.

If relevant, please explain your answer.

UNISON advocates for a position where SOSR cannot be used as a potentially fair reason during the protected period. Whilst we would argue that redundancy and misconduct can continue as potentially fair reasons and possibly capability; albeit on narrower grounds than apply outside of the protected period; the same cannot be said for SOSR. We believe that this leaves too much scope for the employer seeking to justify a potentially discriminatory dismissal.

Question 19: When should employees be entitled to the enhanced dismissal protections?

A. When the employment relationship begins (when they agree with an employer that they'll start work for them, e.g. when a contract is signed).

B. From the day they start work.

C. After an initial period of employment of between 3-9 months, aligned with a

typical probation period.
D. Other – please specify.

UNISON is aware of cases where offers of employment are withdrawn, following a disclosure by a new starter that they are pregnant. Protections need to start immediately.

If relevant, please explain your answer.

Question 20: At what point should the enhanced dismissal protections start for pregnant women?

- A. When the employee becomes pregnant.**
- B. When the employee becomes aware that she is pregnant.**
- C. When an employee informs her employer that she is pregnant.
- D. Other - please specify.

If relevant, please explain your answer.

Question 21: When should the protection ‘window’ for new mothers entitled to maternity leave end?

- A. 18 months from the birth of the child – aligning with the 2023/24 redundancy protections.
- B. Six months from the return to work (the ‘return to work’ being the end of the Maternity Leave period).
- C. Don’t know.

UNISON advocates for a further extension to the protected period to 12 months after a woman returns from maternity / parental leave or 18 months after childbirth, whichever is later.

The results of our recent survey show that new mums remain vulnerable due to mental and physical health concerns for months and / or years after they have given birth. Many are forced to return to work sooner than they would like due to financial constraints and poor rates of statutory maternity pay. In these circumstances, the protected period should last longer to ensure that a new mum receives protection for a minimum of 12 months after she has returned to work.

Question 22: Should women who are not entitled to Maternity Leave have protection against dismissal for two weeks after the end of their pregnancy?

- A. Yes.**
- B. No – please explain your answer.
- C. Other – please explain your answer.
- D. Don’t know.

Question 26: Do you think that parents who take long, family leave

entitlements (i.e. Adoption Leave, Shared Parental Leave or Neonatal Care Leave) are vulnerable in a dismissal situation?

A. Yes.

B. No.

C. Don't know.

*If relevant, please explain your answer and provide any supportive data/evidence.
For all respondents:*

Question 27: Do you think the enhanced dismissal protections should also cover employees taking these other types of long family leave? (Please select all that apply):

A. Adoption Leave.

B. Shared Parental Leave.

C. Neonatal Care Leave.

D. Bereaved Partner's Paternity Leave.

If relevant, please explain your answer and provide any supportive data/evidence.

UNISON's view is that enhanced dismissal protections should apply to all the forms of long family leave stated in the consultation response (adoption leave, Shared Parental Leave, neonatal care leave and bereaved partners paternity leave). This would align protections with the recently introduced redundancy protections, making it clearer for employers and employees what their rights and responsibilities are, and would ensure protections for primary adopters and maternity protections are aligned.

This could encourage greater use of different types of leave as families would be reassured that they have protections against discrimination. It could help to improve reducing stigma around taking different forms of family leave, particularly for dads and co-parents, and create more family friendly workplaces, thereby also improving morale and motivation and recruitment and retention.

UNISON welcomes the acknowledgment in the consultation that the government will consider potential impacts from any reform proposals that emerge from the ongoing parental leave review, including in relation to protections.

Question 28: Thinking about your answer to question 27, should the protection against dismissal start from the first day of the leave?

A. Yes.

B. No.

C. Don't know.

D. Other – please specify.

If relevant, please explain your answer.

If the government is truly committed to changing the culture around caring responsibilities and making it more equal between parents, then the protections should be in place for all of those taking different types of family leave.

Question 29: Thinking about your answer to question 28, how long should the protection against dismissal last? (Please select all that apply)

A. For Adoption Leave, it should follow on from the approach of the enhanced redundancy protections for Adoption Leave (i.e. 18 months from the birth of the child/placement for adoption or entry into Great Britain).

B. For Shared Parental Leave, Neonatal Care Leave and Bereaved Partner's Paternity Leave, it should follow on from the approach of the enhanced redundancy protections for Shared Parental Leave and Neonatal Care Leave (i.e. if the employee takes less than six weeks of continuous leave, the protection ends on the last day of the leave; if they take more than six weeks of continuous leave, the protection ends 18 months from the birth of the child/placement for adoption or entry into Great Britain).

C. Other – please explain your answer.

The period after returning from a lengthy period of family leave is when a new parent can be most vulnerable. They need to adapt to a new situation as a result of their caring responsibilities. They often need to take time off due to child related issues. This can be perceived by some employers as a lack of commitment. UNISON wants to see as much flexibility and protection as possible for all types of family leave to ensure that new parents feel supported. This is so important for morale, motivation, recruitment and retention and mutually beneficial for employers and their staff.

Question 30: How do we ensure women, including those from minority groups, are aware of the enhanced dismissal protections for pregnant women and new mothers? (Please select all that apply)

A. Through intermediaries / trade unions / advice organisations (e.g. Pregnant then Screwed, Maternity Action, Working Families).

B. Clear information in onboarding and employee handbooks.

C. Through government / regulatory / public bodies (e.g. Gov.uk, Acas, EHRC, Health & Safety Executive).

E. Other - please specify.

Please explain your answer – we welcome separate detail on how women from minority groups can be made aware as part of your answer.

As many routes as possible.

Question 31: How do we ensure employers are aware of these changes? (Please select all that apply)

A. Through intermediaries / advice organisations (e.g. business groups).

B. Through government / regulatory / public bodies (e.g. Gov.uk, Acas, EHRC, Health & Safety Executive).

C. Other - please specify.

Please explain your answer.

As many routes as possible.

Employers should be compelled to ensure managers and staff attend specific training related to pregnancy and maternity discrimination. In order to bring about a cultural shift for pregnant employees and new mums, the workplace needs to become more inclusive. Organisations have an important role to play in educating their staff.

Question 32: How can we best support businesses, including smaller businesses, through this change and to avoid disputes escalating to the Employment Tribunal? (Please select all that apply)

A. Clear guidance.

B. Awareness raising campaign.

C. Employer training / webinars / workshops.

D. Templates / model policies / checklists.

E. Free advice routes.

F. More information about dispute resolution (e.g. Acas early conciliation).

F. Other - please specify.

Please explain your answer.

As many routes as possible.

UNISON would like to see a compulsory period of early conciliation where parties are obliged to take part. We would also recommend looking at incentives for employers to take part for example if they fail to respond during early conciliation an uplift of compensation or a stand-alone award for this failure.

Question 33: What unintended consequences, if any, do you think could arise from the enhanced dismissal protections? (Please select all that apply)

A. Increased discrimination – hesitancy in or avoiding hiring women of childbearing age.

B. Negative perception of workplace fairness/culture.

C. Employers delay dismissal decisions until after protection period lapses.

D. Negative impact on hiring generally.

E. Legal uncertainty - employers avoid fair dismissal due to risk.

F. Administrative burden (e.g. additional documentation).

G. Unsustainable or unrealistic asks on small businesses.

G. Other - please specify.

H. None.

Please explain your answer.

Arguably, any of these could arise. There is a balance to be struck between providing a safe and secure working environment without discrimination whilst acknowledging that there may be some administrative burden for employers.

Question 34: What unintended consequences, if any, do you think could arise if the policy were to exclude capability and SOSR as fair reasons to dismiss a pregnant woman or new mother (paragraph 36)?

Please explain your answer.

The 2016 Equality and Human Rights Commission (EHRC) employer survey on pregnancy and maternity discrimination found 84% of employers felt that it was in their interests to support pregnant women and those on maternity leave. There is a clear recognition by a significant majority of employers that providing a safe and healthy workplace for pregnant employees and new mums will reap regards, both in terms of staff morale and retention. However, as the evidence we provide above in our answers to questions 7, 8 and 9 shows, too many employers fail to carry out adequate risk assessments when pregnant employees inform their employers of their pregnancies, to pay SMP, to allow employees who have taken maternity leave to return to a job that's commensurate with their original role, and to make reasonable adjustments during pregnancy to allow employees to remain at work. There are too many examples of unfair selection for redundancy, and automatic unfair dismissal during maternity leave. Too many employers are ignorant of the law or ignore it.

In UNISON's view, dismissal for reasons of capability or SOSR must be reconsidered in order to protect these employees. SOSR is too wide ranging and allows an employer too much scope to dismiss. This option should be removed during the protected period altogether.

UNISON believes that the protected period for automatic unfair dismissal should be extended to 12 months from the date the employee returns to work or 18 months after childbirth whichever is later.

We are not suggesting that there should be a new framework. Instead, we are looking for improvements in respect of the existing framework.

Capability should be removed as an option or an employer should be instructed that where capability concerns were not addressed prior to the protected period, then they cannot be raised for the first time during the protected period. Further information is provided in our response to question 15.

*Almost **3 in 4** (74%) women said that someone insinuated that their performance had dipped due to pregnancy or maternity leave.¹*

¹ [State of The Nation 2023 - Pregnant Then Screwed](#)

This statistic illustrates the vulnerability of women returning to work as they simultaneously face increased scrutiny from colleagues whilst managing the knock-on effects of caring for infant children.

UNISON's 2025 Parental Leave Survey revealed that a significant number of respondents reported difficulties in returning to work after leave:

- 73% did not feel emotionally prepared
- 20% were denied flexible working options
- 17% felt their employers provided inadequate support during their transition back to work

Additionally:

- 52% experienced mental health challenges, including postnatal depression and emotional unpreparedness to return to work.
- 30.2% of respondents felt pressured to return to work earlier than desired, primarily due to financial constraints or lack of support.
- 49.4% indicated they would have taken more leave if it had been better paid or more flexible, suggesting that current policies may not adequately support family needs.

This evidence shows that many people are forced back to work before they are ready.

Over half of all mothers – 52% – have faced some form of discrimination when pregnant, on maternity leave or when they returned.²

Opportunities for an employer to dismiss a woman during this acutely challenging period of her life should be minimised and extending the protected period would help to ensure women are supported to continue in their roles and long-term career development.

In 2023, it was found that almost 1 in 5 mothers left their employer due to negative experiences.³

This increase in rights should not be misconstrued as an attack on employers, rather, supporting their employees who are mothers to return to work and excel in their roles would be of significant mutual benefit.

EHRC estimated that the cost to employers of women being forced to leave their job as a result of pregnancy and maternity-related potential discrimination or disadvantage was around £278.8 million over the course of a year. "These costs were largely due to recruitment and training costs and lost productivity and to SMP

² <https://pregnantthenscrewed.com/1-in-61-pregnant-women-say-their-boss-insinuated-they-should-have-an-abortion/>

³ [State of The Nation 2023 - Pregnant Then Screwed](#)

payments if the woman was on maternity leave when she left. However, women were more likely to leave their employer due to negative or possibly discriminatory experiences when they returned to work, rather than when pregnant, or on maternity leave. These costs do not include those where a woman lodged a claim with the ET, which may be considerable.”⁴

There is significant research demonstrating the benefits of staff retention for employers:

- 64% of UK employers trying to fill vacancies in 2024 experienced difficulties attracting candidates⁵
- 27% of UK employees leave to join another organisation each year⁶
- 88% of organisations are worried about retention⁷
- it costs on average £3000 to recruit new staff and takes roughly 27.5 days to go through standard recruitment process that includes promoting the role, assessing applications and then interviewing candidates.⁸

The Working Well Trust reported that the CIPD also found that staff members who stay and develop with their skills at an employer see their productivity increase by 45%, their innovation by 34% and their overall performance by 47%.

This increase in rights for pregnant women and new mothers will encourage employers to support their staff and invest in them by prioritising retention which will offer them valuable business benefits.

UNISON also advocates for an external regulator to oversee dismissal cases during the protected period. This could be the Fair Work Agency – see also our answer to question 12. This will provide an opportunity for these types of cases to be consistently monitored and appropriate enforcement action to be taken. It will level the playing field for employers and mitigate against any unintended consequences.

Question 35: What action(s) could be taken to mitigate against any unintended consequences? (Please select all that apply)

A. Clear guidance.

B. Training and support for employers.

C. Other - please specify.

D. None.

See response to question 34.

⁴ [Is Britain Fairer? Evidence: \(G\) Productive and Valued Activities](#)

⁵ [Resourcing and Talent Planning Survey | CIPD](#)

⁶ [Benchmarking employee turnover: What are the latest trends and insights? | CIPD](#)

⁷ [2025 Workplace Learning Report | LinkedIn Learning](#)

⁸ [Benefits of employee retention - Working Well Trust](#)

The fact that 1 in 5 mothers reported leaving their employer due to negative experiences, shows that there are significant workplace cultural changes required in order to protect new mums during the vulnerable period when they return to work.

The Employment Rights Act requires relevant employers to produce Equality Action Plans, the remit of these action plans should be extended to include meaningful steps to improving the culture of workplaces for pregnant women and new mothers.

The introduction of enhanced protections could potentially result in criticisms both from within the workforce and employers. Workers may feel a sense of unfairness as colleagues are entitled to better protections now than they were in the past. Employers may argue that greater protections will invite an employee to act in impunity. It is not reasonable to argue that protections should not be introduced because of fears that a small minority will abuse their position. There is no evidence to support this argument. Rather, as demonstrated above, good employer relationships are mutually beneficial and most women would hope to remain in their work beyond the protected period. It is unlikely that an employee would want to harm the long-term relationship with their employer.

Education and training should be considered as part of action plans for employers and employees alike to understand the circumstances their colleagues may be experiencing. The value of supporting colleagues and retaining them should be emphasised within any employer action plans. The equality action plans should address gender pay gap reporting and the work done will devise strategies for changing workplace culture which will align with ambitions to eliminate the discrimination women face when pregnant and as new mothers at work.

Guidance and clear communication on rights on returning to work after having a baby is essential. New mothers should not be required to navigate a complicated system at a time in their lives when they are presented with significant changes. Their own health and wellbeing and that of their babies is paramount.

Employers should be required to report on the statistics of employees who leave their employment when they are pregnant or in their first 18 months of returning to work after maternity leave. Reasons for leaving can be requested at exit interviews. This data can then contribute to the action plans; employers can use union Equality Representatives to assist on remedies and strategies to address these issues.

These enhanced protections need to be accompanied by statutory instruments that allow enforcement strategies so that the onus is not only on the women in these potentially very challenging times of their lives to pursue a claim. The Fair Work Agency (FWA) should support employees in vulnerable situations and exercise its enforcement powers to investigate employers when complaints are

made. Publicly available action plans and policies will assist external bodies and the employee by informing them of their rights and the employer's obligations.

Clarity in legislation protects resources; employers are less likely to make mistakes and are more likely to understand their duties to their employees, thus mitigating increases in disagreements or litigation.

Enhanced protections for new parents need not pose significant difficulty for employers. Keeping the regulations simple, by adhering to the existing regulations, narrowing the available reasons for dismissal, shifting the burden of proof to the employer and extending the protected period, avoids introducing any further confusion or grey areas than there already is.

Question 36: What do you think are the main causes of pregnancy and maternity discrimination? (Please select all that apply)

A. Lack of awareness.

B. Negative attitudes or bias.

C. Cost and operational pressures.

D. Fear of legal risk or complexity.

E. Poor communication (e.g. during Maternity Leave).

F. Other - please specify.

Please explain your answer and provide any supportive data/evidence.

The main causes of pregnancy and maternity discrimination are all the above and in UNISON's experience probably due to the following range of reasons:

- lack of understanding by the employer regarding what their obligations are particularly their obligations to carry out risk assessments and make reasonable adjustments
- pregnant employees and new mums do not know what their rights are
- a reluctance by employers to properly engage with flexible working requests
- new mums having to return to the workplace before they are physically and mentally ready – largely due to financial constraints
- a lack of enforcement including a system that requires employees to bring individual tribunal claims rather than having a regulatory body in place to monitor best practice and act, where necessary

Question 37 – what other changes should the government prioritise to tackle pregnancy and maternity discrimination?

A requirement to collect and report data would help identify issues and prompt discussion about and plans to remedy problems.

Oversight and enforcement by a supervisory authority for example, the Fair Work Agency, could play a key role. Any such authority must be adequately resourced

and officers must receive appropriate training. The government may also wish to consider how other legal obligations such as the obligation on employers to carry out an individual risk assessment and the introduction of mandatory gender pay gap action plans could be used to help gather more data on the experiences of pregnant women and new mothers in the workplace.

Lack of access to flexible working is a key barrier for working parents, particularly mothers, and can make the return to work following a period of leave even more challenging. UNISON welcomes the strengthened rights to flexible working introduced by the Employment Rights Act 2025. However, we would like to see further measures to ensure that flexible working becomes the default, including the introduction of an advertising duty, so that employers must consider what flexibility they can offer in a role and advertise it up front.