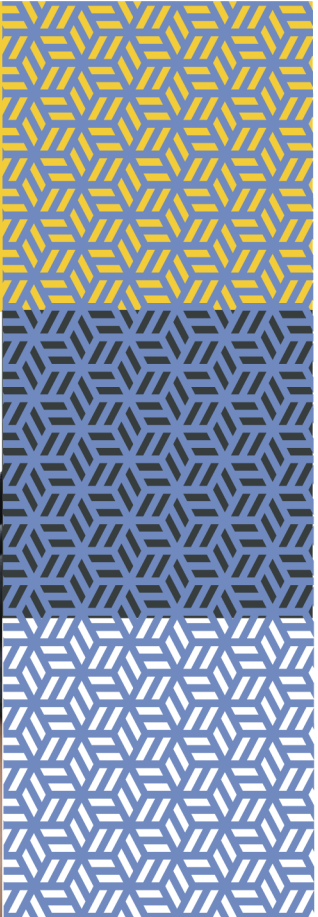
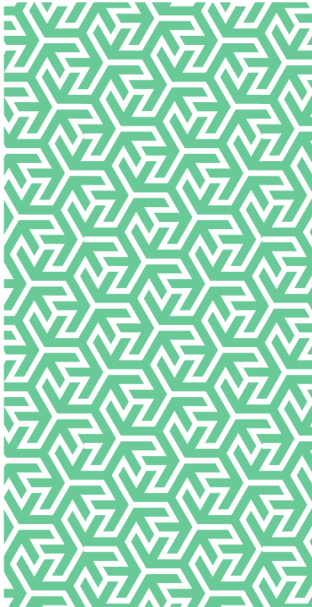


rmp

## Risk control

New and Expectant  
Mothers at Work and Study



In partnership with



# New and Expectant Mothers at Work and Study

## Introduction

Many women work and study while they are pregnant and may return to the workplace while they are still breastfeeding. Some hazards in the workplace may affect the health and safety of new or expectant mothers and their child.

In most cases pregnancy can go undetected for the first 4-6 weeks. An employer has a duty to identify hazards and risks for all female employees and students of childbearing age. Also as the pregnancy progresses some hazards can present more of a risk and risk controls will need to be reviewed.

Employers are responsible for providing a safe working environment while effectively managing risks to the health and safety of all workers, including women of childbearing age.

This means that the employer must ensure that an individual risk assessment<sup>1</sup> for new or expectant mothers is undertaken. This applies to workers who are pregnant, have given birth in the last 6 months, or are currently breastfeeding.

Once a worker **has informed the employer in writing**, or a student advises their institution they are pregnant, they must complete an individual risk assessment and make any necessary changes to support them. In the case of a student the assessment would need to consider the potential risks specific to their discipline, particularly for higher risk environments such as laboratory work or a placement setting. Advice may need to be given to the placement provider to inform their risk assessment.

It is important to note that the Equality Act 2010<sup>2</sup> makes it unlawful to dismiss or discriminate against an employee because they are pregnant, a new mother or are breastfeeding. Breaches of health and safety law may also be considered as discrimination under the Act, depending on the circumstances.

## Women of Childbearing Age

There is no statutory requirement placed upon women to give their employer details of their pregnancy until 15 weeks before the baby is due.

The Management of Health and Safety at Work Regulations 1999 have always required employers to make a suitable and sufficient assessment of the health and safety risks of both employees and those not employed (such as students) but affected by the way they carry out their undertaking.

In the assessment of risk an employer must consider who is at risk from specific hazards. It is important to involve the worker, student, and / or their representatives, in the production of these assessments as they may possess pertinent information that the employer is unaware of.

To enable the employer to make a suitable and sufficient assessment they should make advice on health and safety risks easily available to workers and students wishing to become pregnant, trying for a baby or believe they may be pregnant, to bring it confidentially to the attention of the employer.

## Gig Economy, Agency and Temporary Workers

Gig economy, agency and temporary workers who are expectant or new mothers should be treated no differently to other workers for health and safety purposes.

## Individual Pregnancy

Once a worker has informed the employer in writing, or student advises the institution that they are pregnant, an individual risk assessment for the work, course or placement should be undertaken. The assessment must consider the effect of hazards upon them and the unborn child and make any necessary changes to support them. This includes when the new mother returns to work or study and may be nursing the child.

A starting point is a review of the existing general risk management and controls. This will involve a discussion with them to see if there are any conditions or circumstances with their pregnancy that could affect their work. This also allows them to **discuss any concerns they have** about how their work could affect their pregnancy<sup>3</sup>.

Where the employee or student thinks they are at risk, but the employer does not agree, the employee may seek to involve their safety representative or trade union if they have one.

An employer must take account of any medical recommendations provided by the individuals' doctor or midwife.

The significant workplace hazards to be considered are detailed below.

## Physical Hazards

Some work, studies or placement carries the risk of physical injury, and the consequences for pregnant workers and new mothers can be more serious.

The employer should check whether there is a need to provide extra control measures, for example to protect them when:

- **Working at height.** Due to the physical and physiological changes which occur during pregnancy it is hazardous for pregnant women to work at heights, for example using ladders.
- **Working alone.** The pregnant worker may face additional difficulties raising an alarm in the event that they require assistance. This may potentially lead to further injury or harm. This includes accidents, spills, fire or other incidents which require support.
- **At risk of work-related violence.** The potential for violence at work should be identified and removed as physical assault during pregnancy can result in placental detachment, miscarriage, premature delivery and it may impair a mother's ability to breastfeed.
- **Exposed to whole body vibration** and / or blows to the body. Whole-body vibration (WBV) is transmitted through the seat or feet of employees who drive mobile machines, or other work vehicles, over rough and uneven surfaces as a main part of their job, e.g. while driving off-road vehicles. Large shocks and jolts may cause health risks including back-pain. Exposing the entire body to vibrations over time can increase the risk for premature birth or low birth weight.

## Chemical and Biological Hazards

Many chemical and biological agents can cause harm to pregnant individuals or new mothers. They can also be passed on to their child during pregnancy or breastfeeding. Chemical and biological agents are covered by the Control of Substances Hazardous to Health Regulations 2002<sup>4</sup> (COSHH) and a COSHH Assessment would be required.

A review of substances used in the workplace or laboratory is also relevant. There are about 200 substances labelled with these hazard statements<sup>5</sup>:

- H340: May cause genetic defects
- H341: Suspected of causing genetic defects
- H350: May cause cancer
- H351: Suspected of causing cancer
- H360: May damage fertility or the unborn child
- H361: Suspected of damaging fertility or the unborn child
- H362: May cause harm to breast-fed children

In addition there are also specific regulations for substances such as Lead<sup>6</sup> and Ionising Radiation<sup>7</sup> that require a more specialist and focussed assessment.

Concern about chemical agents can include exposure to:

- **Cytotoxic drugs** are used widely in healthcare settings as well as in the community in the treatment of cancers as well as other diseases
- **Pesticides** can result in absorption from localised contamination, e.g. a splash on the skin, or from exposure to high atmospheric concentrations of vapour
- **Carbon monoxide**, in situations involving operating engines or appliances in enclosed areas
- **Lead** when stripping of old lead paint from doors and windows, or lead-acid battery breaking and recycling
- **Ionising radiation** from a radioactive material or a generator such as an X-ray set, or by inhaling or ingesting radioactive substances
- **Mercury** when handling broken fluorescent lights, or damaged batteries in recycling centres

Concern about biological agents can include exposure to:

- **Hepatitis B and C, HIV, Herpes, Syphilis, Chickenpox and Typhoid** which can affect the unborn child if the mother is infected during pregnancy. These may be picked up in a clinical or laboratory setting and transmitted across the placenta while the child is in the womb or during or after birth e.g. if the child is breast-fed
- **Ovine Chlamydiosis** which is very rare in humans in the UK but is generally only seen in people who have very close contact with infected sheep or goats, such as during lambing, or handling such animals while visiting a city farm, on an educational visit or placement
- **Toxoplasma Gondii** is a parasite that can affect most mammals and birds. **Cats are the main reservoir of infection.** It is a moderately common disease, although most people show mild or no symptoms. Infection during pregnancy can lead to serious complications including stillbirth, miscarriage or birth defects, including visual impairment and brain damage. Infection in the early stages of pregnancy is more likely to cause adverse effects on the unborn child. Possible exposure can occur in a home care situation

## Ergonomic Hazards

New and expectant mothers can be more prone to injury. Sometimes this additional risk may not become apparent until after childbirth.

Postural problems can occur at different stages of pregnancy, and on returning to work or study, depending on the individual and their working conditions.

Employers should make sure new and expectant mothers are not:

- **Lifting, pushing, pulling or carrying heavy loads** as hormonal changes can affect ligaments, increasing susceptibility to injury and postural problems that can increase as the pregnancy progresses. Those who have recently given birth by caesarean section are likely to be temporarily limited in their lifting and handling capability.
- **Sitting or standing for long periods**, especially in late pregnancy, may cause back pain and discomfort in legs. It may also reduce the flow of blood to the foetus affecting that baby's growth reducing the availability of oxygen and nutrients to the foetus<sup>8</sup>
- **Using a workstation** that causes posture issues as the back, neck, and shoulder strain may also become an issue for someone sitting all day.

### Psychosocial Hazards

Long hours and shift work can have a significant effect on the health of new and expectant mothers and their children. They may also be particularly vulnerable to work-related stressors. High workloads, tight deadlines and a lack of control of the work or study and working methods can increase the stress experienced by a new or expectant mother. Psychosocial risk factors<sup>9</sup> can lead to musculoskeletal disorders. For example, there can be stress-related changes in the body such as increased muscle tension that can make people more susceptible to musculoskeletal problems; or individuals may change their behaviour, for example doing without rest breaks to cope with deadlines.

### Night Work

The expectant mother should be offered suitable alternative day work<sup>10</sup>, on the same terms and conditions, when:

- The employee's individual risk assessment has identified a risk from night work
- A doctor or midwife has provided a medical certificate stating the pregnant worker should not work at night

If it is not possible to provide alternative day work, the employer must suspend them from work on paid leave for as long as necessary. This is to protect their health and safety and that of their child.

### Rest and Breastfeeding at Work

Not all employees or students will be affected in the same way, but mental and physical fatigue generally increase during pregnancy and following childbirth.

New and expectant mothers **are entitled to more frequent rest breaks**. Employers should talk to them so they can agree the timing and frequency of breaks.

Employers must provide a suitable area where new and expectant mothers can rest<sup>11</sup>. It should:

- Include **somewhere to lie down** if necessary
- **Be hygienic and private** so they can express milk if they choose to – toilets are not a suitable place for this include somewhere to store their milk, for example a fridge

### Taking Action

Guidance is summarised in the following three actions:

If employers cannot control or remove risk, they must undertake the following actions:

- **Action 1:** Adjust the working conditions or hours to avoid the risk

If that is not possible:

- **Action 2:** Give the individual suitable alternative work or adapt their studies

If that is not possible:

- **Action 3:** Suspend the employee on paid leave, or suspend the student's studies, for as long as necessary to protect their health and safety and that of their child.

The expectation is that the employer must act.

### Risk Assessment Review

Employers must regularly review the individual risk assessment and make any necessary adjustments, as the pregnancy progresses and if there are any significant changes to the employees' activity or workplace.

Working conditions could present a risk to mother and / or child at different stages. As the pregnancy progresses, it may affect the individuals' dexterity, agility, coordination, speed of movement and reach.

### Employment Tribunals

The law says that it is pregnancy discrimination to treat a woman unfavourably because of her pregnancy or pregnancy-related illness. An example of pregnancy discrimination could include failure to remove risks at work and take action to protect the pregnant worker's health and safety during pregnancy.

To show pregnancy / maternity discrimination a person does not have to compare themselves to a woman who is not pregnant but needs to show that the treatment was *because of* their pregnancy or absence on maternity leave.

Employees are also protected against detrimental (unfair) treatment or automatic unfair dismissal because of pregnancy<sup>12</sup>.

There have been several cases<sup>13 14</sup> where the absence of a pregnancy risk assessment has been raised.

An important element of any tribunal case is for the employer to demonstrate that they have followed a fair and consistent process when dealing with new and expectant mothers.

## Summary

It has always been a requirement on employers to assess the risks to women of childbearing age and follow the principles of prevention. Guidance places more emphasis on individual assessment of risk once notified by the expectant or new mother to take more positive action earlier to prevent both mother and child from foreseeable risks in the workplace.

## References

1. [Management of Health and Safety at Work Regulations 1999 as amended.](#)
2. [The Equality Act 2010](#)
3. [HSE Pregnant Workers and New Mothers](#)
4. [Control of Substances Hazardous to Health Regulations 2002](#)
5. [Hazard Statements](#)
6. [The Control of Lead at Work Regulations 2002](#)
7. [The Ionising Radiations Regulations 2017](#)
8. [Work and Pregnancy](#)
9. [What are psychosocial risk factors?](#)
10. [The Employment Rights Act 1996](#)
11. [The Workplace \(Health and Safety and Welfare\) Regulations 1992](#)
12. [The Employment Rights Act 1996](#)
13. [Mrs I Herring v J Lovric Ltd-3200293-2019](#)
14. [Ms Katarzyna Jachacz v Eggfree Cake Box Walthamstow-ltd 3200248-2019](#)

## Further information

For access to further RMP Resources you may find helpful in reducing your organisation's cost of risk, please access the RMP Resources or RMP Articles pages on our website. To join the debate follow us on our LinkedIn page.

## Get in touch

For more information, please contact your broker, RMP risk control consultant or account director.

[contact@mpartners.co.uk](mailto:contact@mpartners.co.uk)



### **Risk Management Partners**

The Walbrook Building  
25 Walbrook  
London EC4N 8AW

020 7204 1800  
[mpartners.co.uk](http://mpartners.co.uk)

This newsletter does not purport to be comprehensive or to give legal advice. While every effort has been made to ensure accuracy, Risk Management Partners cannot be held liable for any errors, omissions or inaccuracies contained within the document. Readers should not act upon (or refrain from acting upon) information in this document without first taking further specialist or professional advice.

Risk Management Partners Limited is authorised and regulated by the Financial Conduct Authority. Registered office: The Walbrook Building, 25 Walbrook, London EC4N 8AW. Registered in England and Wales. Company no. 2989025.