



## Sheffield Occupational Health Advisory Service (SOHAS)

*Working to Prevent and Alleviate the Effects of Work on Health*

REVISED JUNE 2007 | [www.sohas.co.uk](http://www.sohas.co.uk)

THIS FACTSHEET IS PART OF THE **MOTHERS AT WORK SERIES**

# Health and safety rights for pregnant women and new mothers at work

There is special legal protection for pregnant women and new mothers who work. Your employer must make sure that your working conditions will not put your health or your baby's health at risk.

## What are my rights?

In most cases pregnancy goes undetected for the first 4 – 6 weeks. It is important for you and your child's health and safety that you tell your employer in writing that you are pregnant as soon as you can (or that you have miscarried, given birth in the last six months, or are breastfeeding).

- Your employer has a legal duty to make sure that your health

---

It is against the law for an employer to sack a woman because she is pregnant, even if she can't do the same work as before. Any less favourable treatment of a woman because of pregnancy related sickness, is sex discrimination.

---

and that of your baby is not put at risk by the work that you do or the conditions under which you do it.

- Once your employer has received notice in writing that you are pregnant, they must consider what, in your work, could cause harm to you or your baby. They must carry out a personal risk assessment specifically for you. (Under the 'Management of Health and Safety at Work Regulations 1999')
- The risk assessment must be kept under review during pregnancy and also must be reviewed following your return to work.
- Your employer can ask for a certificate from your GP or your midwife showing that you are pregnant.
- It does not matter how small your employer is, the duty to carry out a risk assessment applies to ALL employers.
- An employer must provide a pregnant woman or nursing mother with suitable facilities to rest. (Under the 'Workplace (Health and Safety and Welfare) Regulations 1992')

## Who can help?

A small employer may have very little experience of carrying out risk assessments. You could discuss your job with your GP or midwife. You need to think about specific risks from particular tasks or the ways tasks have to be carried out. You can ask your doctor or midwife for a letter to give to your employer, which sets these risks out. You can also get help from an adviser at Sheffield Occupational Health Advisory Service (SOHAS). Your employer can get information on how to carry out a risk assessment and can order a copy of 'New and expectant mothers at work: A guide for employers' from the Health and Safety Executive (HSE) 2002. They can also obtain a copy of 'Health and Safety at Work for pregnant



Sheffield Occupational Health Advisory Service

3rd Floor, Queen's Building  
55 Queen Street  
Sheffield S1 2DX  
Telephone: 0114 249 5903

[www.sohas.co.uk](http://www.sohas.co.uk)

Funded by Section 64 (Department of Health). Researched and written by Pam Walton. Revised by Hilary Nelson.  
© SOHAS 2007

## WRITING A LETTER TO YOUR EMPLOYER

Dear \_\_\_\_\_

### **RE: Pregnancy risk assessment**

I am writing to inform you that I am pregnant and my baby is due on the \_\_\_\_\_.

I understand that as I have now informed you of my pregnancy I have the right to a personal and specific risk assessment as set out in the 'Management of Health and Safety at Work Regulations 1999'.

I also understand that you should regularly review my initial assessment as my pregnancy progresses, to take into account possible risks that may occur during the different stages of my pregnancy.

I would like to ask you to arrange to see me (and my union representative – *if you have one*) as soon as possible to conduct a risk assessment.

Yours sincerely,

women and new mothers: Information for employers' and 'Health and safety at work for pregnant women and new mothers: Risk assessment checklist' from the SOHAS web site (see Useful Information).

## What are the risks?

Health and safety risks can develop at any stage of pregnancy. For example: from heavy lifting, too much driving, extremes of cold or heat and awkward postures or movements. Some of the most common risks are:

- Lifting and carrying of heavy loads
- Standing or sitting for long periods of time
- Workstations or postures

- Exposure to infectious diseases
- Exposure to chemicals (eg drugs, lead)
- Exposure to radioactive material
- Exposure to smoke
- Work-related stress
- Threat of violence in the workplace
- Long working hours
- Excessively noisy workplaces
- Extremes of heat and cold.

If you are in a trade union, your representative should be able to help you. USDAW (the Union of Shop, Distributive and Allied Workers) have produced a 'Pregnancy risk assessment checklist' (see Useful Information).

## What happens after the risk assessment?

If the risk assessment identifies hazards that could pose a risk to you or your baby, then your employer must do all they can to eliminate the risk or reduce it to a safe level. If the risk cannot be removed your employer must take action:

- **Action 1** If it is reasonable and if it avoids the risk, they should temporarily adjust your working conditions/hours of work.
- **Action 2** If this is not possible, they should offer you suitable alternative work (on terms and conditions which are not less favourable than your normal conditions of employment).
- **Action 3** If this is not possible, you have the right to be suspended on full pay for as long as is necessary to avoid the risk (paid suspension from work).

## Night work

If you work at night and you have a certificate from your GP or midwife stating that you must not work at night, your employer must take action 2 or 3 above.

Some women are offered paid suspension from work when they

**One example of good practice** is in a pet shop where the pregnant woman was banned from any heavy lifting or contact with birds – because of the danger of infection. She was also provided with protective equipment to wear when she cleaned out animal cages.

*Working and Caring: who pays the price?* Sheffield Law Centre, June 2000.

would rather stay at work. If you are in this situation, contact your union representative if you think there might be ways in which your job can be adapted. If you are not in a union contact SOHAS for help (see Useful Information).

If you are signed off sick from work this may not address the cause of your ill health. The health problem could re-occur when you return to work and colleagues, who may also be pregnant or in the future become pregnant, might also be exposed to the hazard.

## What is the impact on maternity pay rights?

Some women may find it difficult to go to work during all or part of their pregnancy because risks are not assessed properly, and/or adequate steps are not taken to deal with the particular risks for pregnant women at work. It is often easier to take time off sick, even if you are not really ill, but just struggling to cope with being pregnant at work.

However, you should consider your rights and options carefully, because if you are signed off sick and you are not eligible for an employers' sick pay scheme you may be financially disadvantaged because:

- your only source of income may be Statutory Sick Pay (SSP) (£72.55 – April 2007), with income support in appropriate cases,
- being off sick and in receipt of SSP during your pregnancy could affect whether or not you qualify for Statutory Maternity Pay (SMP) when you leave work to have your baby. This is because your entitlement



Almost 440,000 working women are pregnant in Great Britain each year. Nearly half are likely to experience some form of disadvantage at work, simply for being pregnant or taking maternity leave. *Equal Opportunities Commission, 2005*

to SMP depends on the level of your earnings during your pregnancy. If your earnings fall below the "lower earnings limit" for the relevant period (e.g. because you are off sick and in receipt of SSP), this may mean you do not qualify for SMP during your maternity leave, (although you may be able to claim Maternity Allowance),

- if you are signed off sick for a pregnancy related reason at any time after the beginning of the fourth week before your expected week of childbirth, your maternity leave will automatically be triggered, irrespective of when you intended to start it.

## Maternity Certificate (MAT B1)

A doctor or registered midwife can complete the MAT B1 certificate at or around 20 weeks. This is need-

ed to claim Statutory Maternity Pay (SMP) or Maternity Allowance.

## Antenatal care

You have a right to take reasonable paid time off for your antenatal care. All pregnant women have this right, no matter how many hours you work, or how long you have been in your job. Antenatal care includes:

- appointments with your midwife, GP or hospital doctor;
- antenatal and parenting classes;
- relaxation classes.

Let your employer know as soon as you can when you need time off and how long you are likely to be away.

Your employer should not ask you to make the time up or to change your normal working hours so that appointments fall out of work time. To do so is unlawful.

## Breastfeeding

Employers have a duty to enable their employees to continue breastfeeding once they have returned to work. You must notify your employer in writing as early as possible that you are breastfeeding. Your employer must then carry out another specific risk assessment and take the steps set out above.

Specific risks could include:

- Working with organic mercury.
- Working with radioactive material.
- Exposure to lead.

---

### Health and Safety Executive guidance:

- ... the (health and safety) regulations do not put a time limit on breastfeeding. It is for the women themselves to decide how long they wish to breastfeed, depending on individual circumstances.
- Access to appropriate facilities for breastfeeding mothers to express and safely store breastmilk or to enable infants to be breastfed at or near the workplace, may facilitate breastfeeding by working women, and may significantly protect the health of both mother and infant.
- Protective measures include:
  - access to a private room where women can breastfeed or express breast milk,
  - use of secure, clean refrigerators for storing expressed breastmilk while at work, and facilities for washing, sterilising and storing receptacles,
  - time off (without loss of pay or benefits, and without fear of penalty) to express milk or breastfeed.

'New and expectant mothers at work: A guide for employers' HSE 2002

---

## Useful information

### For health and safety issues

**Health and Safety Executive (HSE).** A leaflet, 'New and expectant mothers who work' is available free from the HSE Infoline 0845 3450055 or see [www.hse.gov.uk/mothers](http://www.hse.gov.uk/mothers)

**SOHAS (Sheffield Occupational Health Advisory Service)** 0114 2495903. An occupational health adviser can help you to look at how your working hours or arrangements could be temporarily adjusted. A leaflet for employers 'Health and Safety at work for pregnant women and new mothers', and general leaflets on 'Maternity Pay and leave' and 'Return to work: the right to ask for flexible working' are available at [www.sohas.co.uk](http://www.sohas.co.uk)

**USDAW (Union of shop, distributive and allied workers).** On their web site [www.usdaw.org.uk](http://www.usdaw.org.uk) search for 'pregnancy risk assessment checklist'.

### For maternity rights and pay issues

*(Time off for antenatal care, Maternity leave, Protection against unfair treatment or dismissal, Statutory Maternity Pay, Maternity Allowance)*

**ACAS National helpline** 08457 47 47 47 or see [www.acas.org.uk](http://www.acas.org.uk).

**Department of Trade and Industry (DTI)** for an interactive guidance website that will work out what maternity/paternity pay and leave an individual is entitled to see <http://www.direct.gov.uk/en/Employment/Employees/WorkAndFamilies/index.htm>.

**Equal Opportunities Commission.** Specific advice if there is a possibility that you have been discriminated against for being pregnant. Helpline 0845 601 5901 9am–5pm Monday–Friday or see [www.eoc.org.uk](http://www.eoc.org.uk).

**National Insurance enquiries for individuals** for general enquiries on National Insurance and on Statutory Payments, including Statutory Maternity Pay (SMP). Tel: 0845 302 1479.

**Department for Work and Pensions (DWP).** For information on maternity benefit and maternity allowance [www.dwp.gov.uk](http://www.dwp.gov.uk)

**Working Families** for free legal advice for working parents on maternity/paternity leave and pay, rights in family emergencies, help to negotiate family-friendly hours, advice on tax credits and benefits. Tel: 0800 013 0313. Free factsheets at [www.workingfamilies.org.uk](http://www.workingfamilies.org.uk)

*This leaflet draws from materials from the Health and Safety Executive, the Maternity Alliance and USDAW (Union of Shop, Distributive and Allied Workers).*