

Pregnancy and Maternity- Related Discrimination and Disadvantage:

Experiences of Employers

This report was prepared by IFF Research on behalf of the Department for Business, Innovation and Skills and the Equality and Human Rights Commission.

About IFF Research

IFF Research Ltd is an independent research agency specialising in research in the fields of learning and skills, employment and welfare, equality and diversity, enterprise and health and wellbeing. Established in 1965, IFF provides research for a range of clients across the public and private sectors.

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Acknowledgements

We would like to thank the large number of employers who generously gave their time to take part in the surveys.

Finally, we would like to acknowledge the contribution to this research by members of our Academic Advisory Group. Their advice and scholarly outputs have helped to inform and steer all stages of this research project. Their time and valuable insights based on their significant expertise and experience are appreciated. The Academic Advisory Group is:

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Executive summary

Pregnancy and maternity is a protected characteristic under the Equality Act 2010. The legislation prohibits discrimination because of pregnancy and maternity, including treating a woman less favourably because she is breastfeeding. Instances of unlawful discrimination could include a female employee being dismissed or made redundant; refused promotion; denied the right to return to the same job; or having some of her responsibilities taken away because of her pregnancy or maternity leave. It could be sex discrimination if a woman is treated less favourably because she is breastfeeding or if she is harassed because she is pregnant, on maternity leave or because of her return from maternity leave.

In addition, Regulation 10 of the Maternity and Parental Leave Regulations 1999 requires that when a woman faces redundancy during her maternity leave, if there is a suitable alternative job it must be offered to her. Failure to do so could be automatic unfair dismissal and also discriminatory practice.

There has also been a series of family-friendly legislation over the past decade which has had an impact on workplace management of pregnancy and maternity.

There is a lack of up-to-date evidence on employers' experiences of, and attitudes towards, managing pregnancy and maternity. As a result, the Department for Business, Innovation and Skills (BIS) and the Equality and Human Rights Commission (EHRC) commissioned a programme of research to investigate the prevalence and nature of pregnancy discrimination and disadvantage in the workplace. The results in this report are based on research with employers across Great Britain involving: 3,034 survey interviews with employers; 49 follow-up in-depth interviews; and two focus groups. The research covered the experiences and views of employers regarding managing employees while pregnant, on maternity leave, and returning from maternity leave.

In all cases, results are based on employers' perceptions. All employers involved in the research had at least five employees at the workplace.

As part of this project, a separate strand of research was also undertaken with mothers across Great Britain involving 3,254 survey interviews with mothers and 60 follow-up interviews. Results from this part of the research can be found in a separate report entitled 'Pregnancy and Maternity-Related Discrimination and Disadvantage: Experiences of Mothers'.¹

¹ Adams, L., Winterbotham, M. et al (2016) *Pregnancy and Maternity-related Discrimination and Disadvantage: Experiences of Mothers*, Department for Business, Innovation and Skills and Equality and Human Rights Commission.

Awareness and attitudes towards statutory rights of pregnant women in the workplace

Most employers (69%) felt they had a high level of awareness about the rights of pregnant employees. Awareness was highest among:

- large employers with 250 plus staff at the site (89%);
- medium-sized employers with 50-249 staff (81%); and
- employers in the public sector (83%).

One in 10 considered they had low awareness (the remainder either described their level of awareness as neither high nor low (18%) or were unsure (3%).

The employers more likely to report having low awareness were:

- in the Construction (23%) and Trade (15%) sectors;
- single-site organisations (13%). Single-site organisations refer to companies that have only one establishment. Establishments that are part of a larger organisation refer to companies that have multiple sites.
- employers reporting no pregnancies in the workplace in the last three years (12%);
- small employers (11%).

A third of employers had sought information or guidance on employment issues relating to pregnancy and maternity in the last three years. The 67% that had not were more likely to be employers who had not had a pregnant employee at their workplace in the past three years (88%), or:

- employers in the Agriculture, Fishery and Mining (80%), Construction (80%), Manufacturing (77%) and Trade (72%) sectors;
- single site organisations (71%);
- small employers with 5-49 staff at the site (70%);
- private sector employers (69%);
- employers in England (68%) in comparison to Scotland (52%). The figure among employers in Wales (62%) was not statistically significantly different to that for employers elsewhere in Great Britain.

Employers who sought information and guidance most commonly did so on:

- maternity leave and pay entitlements (54%);
- statutory rights relating to the notice period for women returning from maternity leave (16%);
- health and safety information (13%);
- statutory rights relating to time off for appointments (12%);
- information on dealing with flexible working requests (12%).

The majority of employers who sought this information and guidance rated the availability (72%) and quality (74%) of information on the responsibilities of employers positively.

Employers generally considered the statutory workplace rights of women who become pregnant to be reasonable. The majority of employers thought each of the statutory rights were reasonable, and eight of the 10 rights were considered reasonable by at least three in four employers (ranging from 78% for the right to Additional Maternity Leave (AML) to 90% for the right to Ordinary Maternity Leave (OML)). A third of employers (32%) felt all 10 rights discussed were reasonable, rising to almost half (47%) among large workplaces. Half (51%) felt at least one right to be unreasonable.

The rights employers were most likely to consider unreasonable were:

- Enhanced protection from redundancy during OML (28%);
- Accumulation of annual leave during maternity leave (25%);
- AML (13%).

For the other statutory rights discussed, fewer than 10% of employers felt each unreasonable.

The vast majority of employers felt that supporting pregnant women and those on maternity leave was in the interests of their organisation (84%). The most common reasons were because it increased staff retention (58%) and employers felt they had a responsibility to support staff, (23%), while one in five said it created better morale among employees (20%).

Although most employers were positive about the career ambitions and commitment of pregnant women and new mothers, around one in five (17%) believed pregnant women and new mothers were less interested in career progression and promotion than other employees. 7% felt that pregnant women and those returning from maternity leave were less committed to work than other employees. One in seven employers (14%) with a pregnancy in the workplace within the last three years felt that women had abused their rights during pregnancy. In the follow-up interviews the reason for this view often related to suspicion of 'excessive' sickness absence during

pregnancy.

Difficulties managing issues relating to pregnancy and maternity

One in four employers (25%) said it was easy to facilitate all statutory rights relating to pregnancy and maternity. Employers found it more difficult to facilitate some statutory rights:

- One in five (19%) said accumulation of annual leave during maternity was difficult to facilitate;
- Around one in six (16%) said AML was difficult to facilitate;
- Some employers also reported difficulties with managing issues relating to pregnancy, maternity leave, and mothers returning from maternity leave, in particular:
 - Managing the uncertainty about whether mothers on maternity leave will return to work (26% found this difficult);
 - Arranging and managing maternity cover (18% found this difficult);
 - Managing the impact of part-time or flexible working during pregnancy or on return from maternity leave (17% found this difficult).

Analysis identified underlying themes in relation to the difficulties employers may face and the characteristics of employers more likely to report these types of difficulties. Employer size was often an important factor: while the largest employers were the least likely to report difficulties resourcing and managing maternity pay and leave, they were the most likely to express concerns around resentment and workload management of the wider team.

Sector was also identified as an important factor in reporting difficulties resourcing and managing maternity pay and leave. Employers in the Finance sector were twice as likely as average to report resentment and difficulties around workload, management of the wider team and almost twice as likely as average to hold negative attitudes around the commitment and value of pregnant employees and new mothers. (Average here refers to the average among all employers; average is used in this way throughout the report unless otherwise stated).

Identification and management of risks

Nearly all employers (98%) undertook a general health and safety risk assessment for the activities of their business. Although almost all employers understood their legal responsibility to conduct general health and safety risk assessments, and that part of this responsibility included ensuring a safe working environment for pregnant women and mothers, employers had varied approaches to managing risks. Some felt that pregnant women should have a specific risk assessment after telling their employer they were pregnant, often regularly reviewed as the pregnancy progressed; whereas others felt general risk assessments covering all employees

were sufficient. There was also wide variation in the formality of general and specific risk assessments. In the follow-up interviews it was evident that the majority of employers were unaware of workplace risks for women returning from maternity leave.

It was common for general risk assessments to identify risks for pregnant mothers or those returning from maternity leave. Among workplaces conducting these assessments around two in five (41%) had identified risks to pregnant women and new mothers, equivalent to two in three of those with a pregnancy or woman returner in the last three years.

Around half of employers (53%) with a recent pregnancy (in the last three years) in their workplace had changed the duties of pregnant women as a result of risks they had identified. The same applied to one in nine employers (11%) who had mothers return following maternity leave. The proportion of employers who changed the duties of pregnant women and those on maternity leave varied significantly by sector. The sectors where it was most common for changes to be made were the Hotels and Restaurants sector (77%) and the sector where it was least common was the Finance sector (9%).

Communication while on maternity leave

Most workplaces with experience of managing a pregnant employee over the last three years reported that they had formal or informal contact with employees on maternity leave (77%).

Whereas most employers contacted mothers regularly (40%) or occasionally (33%) throughout the maternity leave, some left it close to the point when the female employee was due to return (10%). The frequency of contact varied greatly: a few said this was at least once a week (8%) and a third indicated it was more than once a month. However, one in six said contact during maternity leave was very occasional or only when absolutely necessary (16%), and a few said it was just to discuss an employee's return to work (3%). Contact was more frequent among small employers, with 14% contacting mothers several times a month or more, compared with 5% of medium and large employers.

There was a variety of reasons for contact: for around half (48%) it was to keep the employee 'in the loop' generally and one in four said that it helped to keep those on maternity leave up-to-date with developments in the workplace.

57% of all employers were aware of Keeping in Touch (KIT) days and a quarter had made use of them (26%).

Employers' concerns that employees may misinterpret their intentions prevented some employers making more contact. Three in 10 employers (29%) were concerned that contacting mothers on maternity leave could cause new mothers to feel under pressure to return to work sooner than they wanted to.

Flexible working

Most employers were positive about the concept of flexible working and nearly all offered some form of flexible working in their workplace (96%). Employers felt they tried to accommodate requests where possible, particularly from pregnant women or those returning from maternity leave. The vast majority regarded the right of pregnant women to request flexible working as reasonable (88%). Since July 2014 this right applies to all employees after 26 weeks' employment service not, as before, only those with children and some categories of care workers.

Nearly three in five employers (58%) with a recent pregnancy in their workplace had received requests for flexible working from pregnant women or those on or returning from maternity leave. The majority of these employers said they granted all the requests they had received (84%).

Around one in seven employers (14%) who had received requests for flexible working from a pregnant woman or mother returning from maternity leave in the last three years had turned down at least one of these requests. The main reason for refusing requests was that it did not fit with operational requirements (46%), while a quarter reported it not being possible to reorganise work among other staff. Other common reasons for declining a flexible working request included:

- Business would not be able to meet customer demand (20%);
- Flexible working would affect quality and performance (16%);
- People could not be recruited to cover the work (15%).

Breastfeeding

Just under half of employers (47%) thought they were clear about what they needed or would need to do to accommodate mothers' requests to express milk or breastfeed in the workplace. This was higher among large employers (66%), particularly large public sector workplaces (80%). Almost one in four employers (24%) were unclear about their responsibilities in this area.

Just over half of employers (53%) had some form of facility or opportunity for expressing milk or breastfeeding; usually a private room with suitable facilities (43% of all employers). Two in five employers (42%) had no such facilities available, higher among small employers (43%) than medium (37%) and large employers (23%).

8% of employers had received requests from mothers returning from maternity leave to express milk at work in the past three years. However, the qualitative follow-up interviews show that some mothers had concerns around the practicalities of expressing milk or breastfeeding at work, which discouraged them from requesting this from their employer.

Prevalence and management of complaints

Overall 5% of employers with recent experience of a pregnant employee at their workplace or a mother returning following maternity leave had received either a formal complaint relating to pregnancy or maternity discrimination and/or had informal discussions with women about perceived unfair treatment in this area in the last three years (1% and 4% respectively).

Where employers had received a formal complaint the most common single outcome was that the complaint was withdrawn (28%). Where a complaint was decided internally it was slightly more common for it be upheld (15%) than for it to be dismissed (9%). Around three in 10 (28%) said the complaint had been resolved.

The in-depth follow-up research showed that most employers had formal complaints procedures in place and felt that their working environment was conducive to honest communication between employee and employer.

The follow-up research also revealed employers thought some mothers chose not to make complaints about perceived poor treatment because they don't want to be seen as troublemakers. Some employers also felt women were concerned about the negative repercussions of making a complaint.

Recruitment

An employer is legally required when making recruitment decisions not to treat a woman unfavourably because she is pregnant, or might become pregnant. If an employer asks an applicant questions about pregnancy or her plans to start a family, and she is not appointed to a post, an employment tribunal may conclude that discrimination has occurred.

The majority of employers (70%) believed that women should declare to potential employers during recruitment if they are pregnant. The reasons given by employers in the follow-up interviews suggested that they were unwilling to employ pregnant women because they believed that:

- Finding cover for someone on maternity leave can be costly, time-consuming and disruptive;
- The time spent training new employees is wasted if they go off on maternity leave;
- It takes time for replacement employees to settle into a team and build relationships with colleagues and clients;
- There is uncertainty over whether the mother will return to work;
- Not disclosing they are pregnant at interview meant the employment relationship did not start off on an open and honest foundation;

- A pregnant employee might not fulfil the job role properly, particularly if it involved manual tasks, due to health and safety concerns.

A quarter of employers felt it was reasonable during recruitment to ask women about their future plans to have children. The follow-up interviews showed that some employers felt that asking was unacceptable, while others felt it was pointless as an employer had no control over a woman's plans have children.

Redundancy and dismissals

Overall, 2% of employers who had managed a pregnant worker in the last three years had made a pregnant employee or woman on maternity leave redundant. Half of these (51%) did not offer a suitable alternative position to all or some of these employees (this is still compliant with legislation as long as no alternative positions were available).

Where employers had offered alternative positions to women on maternity leave, three in 10 (31%) had not offered them alternative positions ahead of other employees, as legislation requires.

Just over half of employers (55%) felt that the statutory right to enhanced protection from redundancy during OML was reasonable. This was the right that employers were least likely to consider reasonable of all of the 10 rights of pregnant women and women on maternity leave in the workplace: just over one in four employers (28%) felt this right was unreasonable. A similar proportion (25%) felt the accumulation of annual leave during maternity leave unreasonable. Far fewer employers (5% to 13%) felt the other rights to be unreasonable.

One in eight employers (13%) with any pregnant employees in the last three years found it difficult to facilitate the right to enhanced protection during OML. This was usually because they considered it unfair and wanted to treat everybody equally (77%).

The follow up interviews found employers misunderstood what enhanced protection from redundancy meant and what employers have to do to be compliant. Some felt they simply had a duty to treat those on maternity leave the same as other employees, which would be considered unlawful behaviour as it would mean those on maternity level are not being protected at the enhanced level that the law requires. Others assumed that they had to exclude those on maternity leave from the selection process entirely.

As a result of this uncertainty some employers were extremely cautious in taking any action relating to redundancy for women who are pregnant or on maternity leave. 1% of employers with any recent pregnant employees had dismissed a woman who was pregnant or on maternity leave. This was more likely to be reported by large employers (5%). In the mothers' survey, 1% of mothers reported being dismissed.

1. Introduction

1.1 Background to the survey

Pregnancy and maternity is a protected characteristic under the Equality Act 2010. The legislation prohibits discrimination because of pregnancy and maternity, including treating a woman less favourably because she is breastfeeding. Instances of unlawful discrimination could include a female employee being dismissed or made redundant, refused promotion, denied the right to return to the same job, or having some of her responsibilities taken away because of her pregnancy or maternity leave. It could be sex discrimination if a woman is treated less favourably because she is breastfeeding or if she is harassed because she is pregnant, on maternity leave or because of her return from maternity leave.

In addition, Regulation 10 of the Maternity and Parental Leave Regulations 1999 requires that when a woman faces redundancy during her maternity leave, if there is a suitable alternative job it must be offered to her. Failure to do so could be automatic unfair dismissal and also discriminatory practice.

There have been significant changes in the regulation of family-friendly working arrangements over the last decade, which also have had an impact on workplace management of pregnancy and maternity. These include: the Work and Families Act 2006 which introduced 52 weeks' maternity leave for all employees and Keeping in Touch (KIT) days; changes to the rules governing carers' requests for flexible working (2007); and the Additional Paternity Leave Regulations 2010 and the Children and Families Act 2014, which extended the right to request flexible working to all employees. Despite the legislation, there is some evidence that: women still experience discrimination because of pregnancy or maternity; that some employers may not fully understand their obligations towards pregnant women, those on maternity leave, or those returning from maternity leave; and employees may not be fully aware of their rights or able to secure access to redress.

The last comprehensive study on these issues was undertaken in 2005, when the Equal Opportunities Commission conducted a formal investigation into discrimination against new and expectant mothers in the workplace.²

The investigation generated an estimate that, per year, almost half (45%) of the 440,000 pregnant women in Great Britain experienced some form of disadvantage at work, simply for being pregnant or taking maternity leave. It is also estimated that 30,000 (7%) lost their jobs. This figure includes voluntary redundancy, those who

² EOC (2005) '*Greater expectations – final report of the EOC's investigation into discrimination against new and expectant mothers in the workplace*'. Available at: <http://www.equalityhumanrights.com/sites/default/files/uploads/eocpregnancydiscrimgreaterexpectations.pdf> [Accessed: 8 December 2015].

were offered an alternative position, and those made redundant as part of a wider round of redundancies at the mother's workplace. The investigation established that the principal reasons for employers not complying with the law on pregnancy and maternity included their lack of knowledge or understanding of maternity rights, the costs and difficulties of planning work when managing employees who were pregnant or on maternity leave and negative attitudes (albeit among a minority).

More recent surveys suggested that mothers and those who are pregnant still experience some unfair treatment, but did not explore the scale, causes, and whom it affects. Other surveys looked at employers' awareness of maternity rights, but did not indicate where awareness is low and why.³

In light of these evidence gaps, the Department for Business, Innovation and Skills (BIS) and the Equality and Human Rights Commission (EHRC) commissioned IFF Research to research employer and employee experiences in relation to the management of pregnancy and maternity in the workplace. The research provides a robust evidence base on the current scale and nature of possible discriminatory activity experienced by pregnant women and new mothers, as well as on employer attitudes and approaches to pregnancy and maternity, and challenges they face managing these.

1.2 Research objectives

The primary aims and objectives of the research are to explore:

- type, incidence and experience of potential pregnancy and maternity-related discrimination and disadvantage in Great Britain;
- the characteristics of women who experience possible discrimination;
- availability and effectiveness of advice and support;
- experiences of women who raise complaints or attempt to enforce their legal rights;
- employer awareness of and attitudes to their legal rights and responsibilities;
- employer attitudes towards recruiting and managing women of childbearing age, pregnant women, those on maternity leave and women with children;

³ BIS (2007), Third Work-life Balance Surveys of Employers; BIS (2015), Fourth Work-life Balance Survey of Employers.

- availability of advice and support for employers (particularly small and medium-sized enterprises);
- why some employers may possibly discriminate and others are successful in promoting good practice;
- the demand among mothers to breastfeed or express milk in the workplace and employer attitudes, policies and practices in relation to breastfeeding in the workplace.

The results in this report are based on: survey interviews with 3,034 employers; follow-up, qualitative in-depth interviews with 49 employers; and two focus groups (one with employers in the Health and Social Care and the Arts, Culture and Leisure sectors and another with employers who had no experience in the last three years of pregnancy and maternity in the workplace).

Only statistically significant survey results for all employer characteristics have been reported, unless otherwise stated. The following symbol has been used in the report * to indicate a percentage based on fewer than 50 responses. Results should therefore be treated as indicative.

The technical appendix sets out the methodology used for both the survey and follow-up qualitative elements, and explains reporting conventions and interpretation.

2. Employer awareness of and attitudes towards statutory rights

This chapter examines employers' perceptions of their overall awareness of the statutory rights of pregnant employees. It explores employers' use of, and views on, information and guidance on employment issues relating to pregnancy and maternity. It considers employers' views on whether various statutory rights are reasonable.

The chapter examines general employer attitudes and experiences regarding pregnancy and maternity, such as:

- Whether employers felt supporting pregnant women and those on maternity leave was in the interests of their organisation;
- Views on the career ambitions and commitment of pregnant employees and women returning from maternity leave;
- Perceptions of whether pregnant employees had abused their rights;
- The extent to which employers felt employees' pregnancies put an unreasonable cost burden on their workplace.

A number of statutory legal rights apply to pregnant employees, employees on maternity leave and those returning to work following maternity leave. These include rights to reasonable paid time off to attend antenatal care appointments, 52 weeks' maternity leave if they are officially employed at their workplace and have given the correct notice period, statutory maternity pay, protection from redundancy during maternity leave, a right to request flexible working and protection from unlawful discrimination.

2.1 Summary

Most employers (69%) felt they had a high level of awareness about the rights of pregnant employees. Reported awareness was highest among large employers (89%), medium-sized employers (81%) and those in the public sector (83%). However, three in 10 employers (31%) reported low awareness, described awareness as 'neither high nor low', or were unsure.

At least 55% thought that each statutory right was reasonable. A third (32%) felt all 10 rights discussed were reasonable, rising to almost half (47%) among large workplaces. Half (51%) felt at least one right was unreasonable.

The rights most likely to be considered unreasonable were:

- Enhanced protection from redundancy during Ordinary Maternity Leave (OML) (28%);⁴
- Accumulation of annual leave during maternity leave (25%);
- Additional Maternity Leave (13%).

For the other statutory rights, fewer than 10% of employers felt each was unreasonable.

The vast majority of employers felt that supporting pregnant women and those on maternity leave was in the interests of their organisation (84%). The most common reasons included that it increases staff retention (58%), employers felt they had a responsibility to support staff (23%) and while one in five employers reported that supporting pregnant women and those on maternity leave creates better morale among employees (20%).

Almost two thirds of employers (65%) did not think pregnant women and new mothers were less interested in career progression and promotion than other employees. Around four in five felt that pregnant women (80%) and those returning from maternity leave (78%) were as committed to work as other employees. In contrast, just under one in five (17%) believed that pregnant women and new mothers were less interested in career progression and promotion than other employees. 7% did not think that pregnant women and mothers returning from maternity leave showed the same commitment as other members of the team.

Although most employers (78%) thought that women had not abused their rights in pregnancy, one in seven (14%) with a pregnancy in the workplace in the last three years thought some women had abused their rights during pregnancy. This was most likely to be related to suspicion about 'excessive' sickness during pregnancy.

One in five employers with a recent experience of pregnancy in the workplace ('recent' refers to a pregnancy in the last three years) felt that pregnancy puts an unreasonable cost burden on their workplace. This was higher among those without a recent experience of pregnancy in the workplace (32%).

2.2 Statutory rights

2.2.1 Statutory rights during pregnancy

All pregnant employees have the right to reasonable paid time off to attend antenatal care appointments. Antenatal care covers not only medical examinations related to the pregnancy but also, for example, Parentcraft classes, if they have

⁴ This right is discussed within chapter 10 entitled 'Redundancy and dismissals'.

been recommended by a doctor or midwife.

2.2.2 Statutory rights while on maternity leave

Statutory leave

All employees can take up to 52 weeks' maternity leave if they are officially employed at their workplace and have given the correct notice period (15 weeks before an employee's due date). This is applicable regardless of how long an employee has been with their employer, how many hours they work or how much they get paid.

The first 26 weeks of statutory leave is known as 'Ordinary Maternity Leave' and the last 26 weeks as 'Additional Maternity Leave' (AML). Not all 26 weeks have to be taken by an employee. However, employees must take compulsory maternity leave, which is two weeks immediately after the birth (or four weeks for factory workers).

Statutory pay

All employees are eligible for Statutory Maternity Pay (SMP) if they:

- earn on average at least £111 a week.
- give the correct notice.
- are able to prove they are pregnant.
- have worked for their employer continuously for at least 26 weeks up to the 'qualifying week' – the 15th week before the expected week of childbirth.

SMP is paid for up to 39 weeks. Employees are entitled to:

- 90% of average weekly earnings (before tax) for the first six weeks;
- £139.58 (2015/16 rate) or 90% of their average weekly earnings (whichever is lower) for the next 33 weeks.

SMP usually begins when an employee starts their maternity leave. It starts automatically if an employee is off work for a pregnancy-related illness in the four weeks before the week her baby is due, unless her employer agrees that she can carry on working.

Enhanced protection from redundancy when on Ordinary Maternity Leave

A female employee can be made redundant while on maternity leave if her position is genuinely redundant, but cannot be selected for automatic redundancy just because she is pregnant or on maternity leave. If an employee's role is made

redundant during maternity leave, her employer must offer her any suitable alternative vacancies. The employee on maternity leave must be considered for these vacancies before any other employee and must not be made to apply for any such vacancy or be interviewed for it – it should simply be offered to her. If an employee is made redundant, and qualifies for SMP, she must continue to receive it.

2.2.2 Statutory rights when returning to work following maternity leave

Right to request flexible working

Flexible working describes a type of working arrangement which gives some degree of flexibility on how long, where, when and at what times employees work. The flexibility can be in terms of working time (for example, part-time, flexitime), working location (such as working from home) or the pattern of working (for example, job share). Since April 2003, parents of young and disabled children have had the statutory right to apply to work flexibly. The Children and Families Act 2014 extended this statutory right to all employees. To request flexible working an employee must make an application in writing, setting out their proposal. Employers must consider the request and notify the employee of their decisions within 14 days of the date of a meeting to discuss the request. The notification must set out clear business reasons for any decision taken.

2.2.3 Accrual of annual leave during maternity leave

While on maternity leave, employees continue to build up their holiday entitlements just as they would if they were absent due to illness. If they cannot take all the leave they are entitled to during a particular year, they can carry it over to the following year.

2.2.4 Protection from unlawful discrimination

Pregnancy and maternity discrimination is unlawful under the Equality Act 2010. Any unfavourable treatment because of pregnancy, pregnancy-related sickness or maternity leave is unlawful.

Unfavourable treatment because of pregnancy or maternity leave includes:

- dismissal, including redundancy;
- refusing to recruit a woman because she is pregnant or on maternity leave;
- being overlooked for a promotion;
- removal of responsibilities;
- failure to carry out an appraisal;

- failure to make adjustments where necessary to protect pregnant employees or their babies;
- lack of consultation about redundancies, re-organisation or new jobs;
- denial of a bonus because of pregnancy or maternity leave.

It could also be sex discrimination to harass a woman, for example by making unwanted comments about pregnancy which create a hostile, degrading, humiliating or offensive environment for a pregnant employee.

2.3 Employer awareness of the statutory rights of pregnant employees

When asked on a scale of 1-5 where 1 is very low and 5 is very high, most employers felt they had a high level of awareness about the rights of pregnant employees. Seven in 10 (69%) felt they had a high level of awareness and this increased with size of workplace: two in three small employers reported high awareness, compared with four in five medium employers (81%) and nine in 10 (89%) large employers. Reported awareness was also higher among:

- public sector employers (83%, compared with 68% of private and 67% of third sector employers);
- workplaces recognising either a trade union or staff association (79%, compared with 67% with neither of these);
- establishments that are part of a larger organisation (74%).⁵

However, three in 10 employers (31%) did not report a high level of awareness: one in 10 employers reported low awareness (10%); two in 10 described awareness as 'neither high nor low' (18%); and 2% were unsure. Those most likely to report low awareness were:

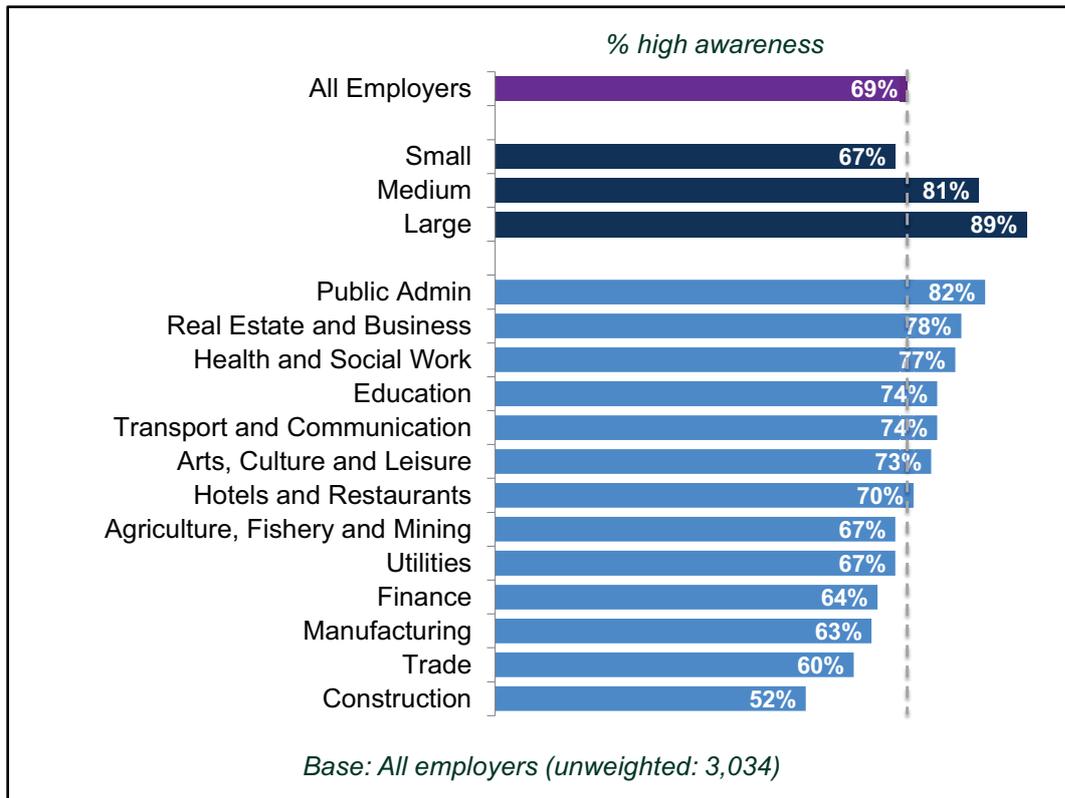
- construction (23%) and Trade (15%) sector employers;
- single-site organisations (13%);
- those with no pregnancies in the workplace in the last three years (12%);
- small employers (11%).

⁵ 'Establishments that are part of a larger organisation' refers to organisations that have multiple sites. Single site organisations are those that have only one establishment.

Self-reported awareness of pregnant women’s statutory rights varied by industry sector (Figure 2.1). Employers in Public Administration were most likely to report high awareness (82%), while just over half of employers in Construction (52%) and six in 10 employers in Trade (60%) reported high awareness.

While relatively few Construction sector employers employed a large proportion of women (just 1% in this sector employed more women than men), this was not the case in the Trade sector, which covers Retail and Wholesale (half, 51%, employed more women than men).

Figure 2.1: Self-reported awareness of the statutory rights of pregnant employees by size and sector



2.4 Availability and quality of guidance on employment issues relating to pregnancy and maternity

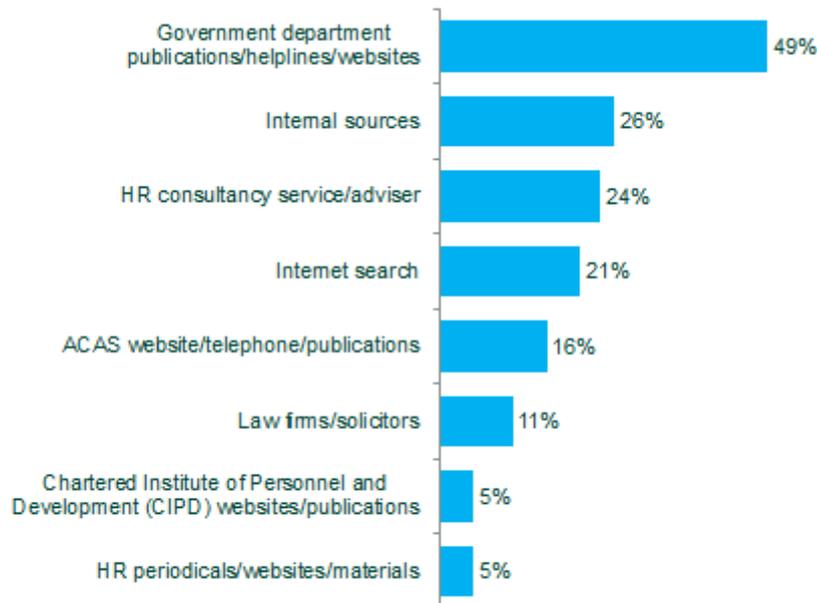
Overall, a third of employers had sought information or guidance on employment issues relating to pregnancy and maternity in the last three years.

The employers who had not sought information were more likely to be those who had not had a pregnancy in the workplace in the past three years (88%) or to be:

- employers in the Agriculture, Fishery and Mining (80%), Construction (80%), Manufacturing (77%) and Trade (72%) sectors
- single, independent establishments (71%)
- small employers (70%)
- private sector (69%)
- employers in England (68%). In comparison, just over half of employers in Scotland (52%) and just over six in 10 employers in Wales (62%) had not sought information. (The figure for Wales (62%) was not statistically significantly different to that for employers elsewhere in Great Britain.)

Employers were most likely to seek information and guidance from government department publications (49%), internal sources (26%) and HR consultants/advisers (24%). Figure 2.2 shows the sources of information used by employers.

Figure 2.2: Sources of information used by employers on their responsibilities towards pregnant women and those on or returning from maternity leave



Base: Employers who have sought information on employment issues relating to pregnancy and maternity in the last three years (unweighted: 1,412)

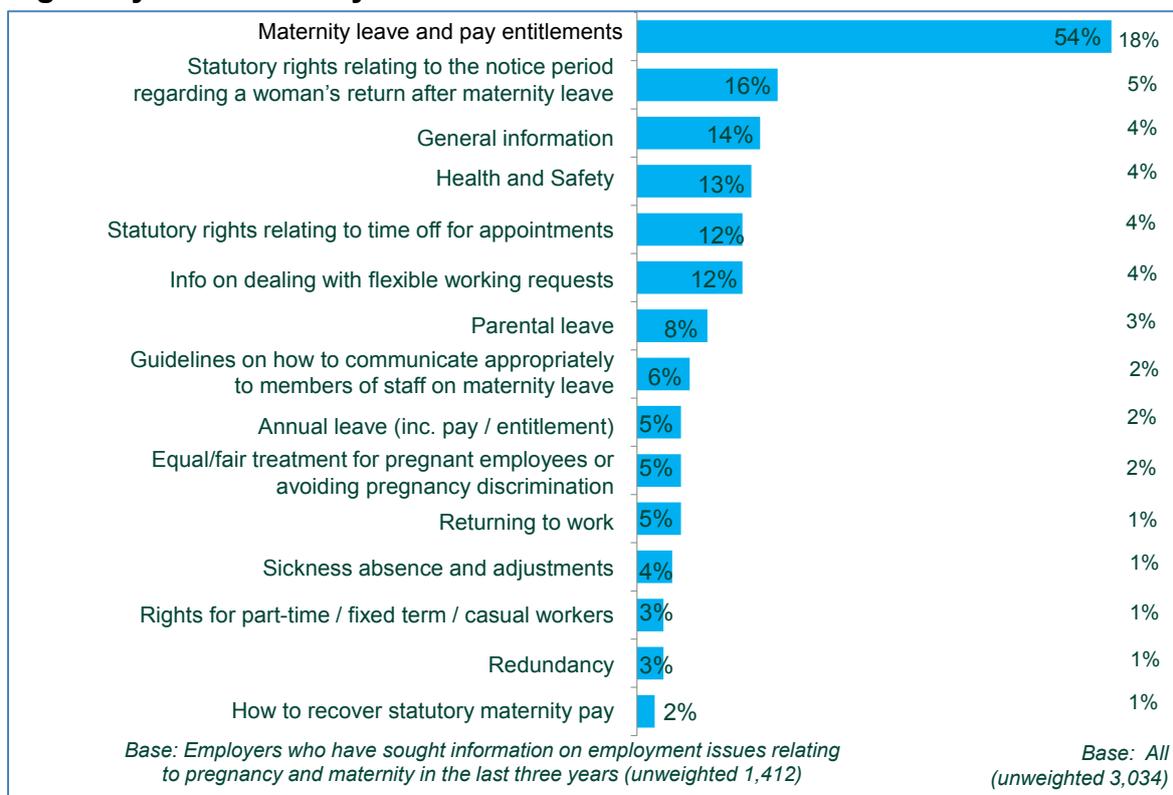
Internal sources were considered most trustworthy: 94% of those using internal sources reported consulting this, compared with 91% using HR consultants/advisers and 89% of those using government department resources.

Employers were most likely to seek information and guidance on maternity leave and pay entitlements (54% of those that sought information; equivalent to 18% of all employers). Employers who sought information were also likely to explore topics such as:

- Statutory rights relating to the notice period for women returning to work (16%, of those that sought information; equivalent to 5% of all employers);
- Health and safety information (13% of those that sought information; equivalent to 4% of all employers);
- Statutory rights relating to time off for appointments (12% of those that sought information; equivalent to 4% of all employers);
- Information on dealing with flexible working requests (12% of those that sought information; equivalent to 4% of all employers).

Figure 2.3 shows the range of topics for which employers had sought guidance: the bars show results based on employers who had sought information in the last three years; the column of figures on the right show results based on all employers.

Figure 2.3: Types of information sought by employers on issues relating to pregnancy and maternity



The majority of employers seeking information and guidance on employment issues relating to pregnancy and maternity rated the availability and quality of information on the responsibilities of employers positively (72% and 74% respectively), scoring it at least four out of five on a very poor to excellent scale. Positive views on the availability of information were more common among large employers than small (79% compared to 72%).

2.5 Overview of employer views of the reasonableness of the statutory rights of pregnant employees

10 statutory rights of pregnant women were discussed with employers. The majority of employers felt each of these statutory rights was reasonable (lowest at 55% for enhanced protection from redundancy during OML and highest for the right to OML at 90%). A third (32%) felt all 10 rights were reasonable. The proportion who felt all these rights were reasonable was higher among:

- large employers (47%) and establishments that are part of a larger organisation (39%)
- public sector employers (42%)
- workplaces with a trade union or staff association (39%), and
- real Estate and Business sector employers (38%).

Half of employers (51%) felt at least one right was unreasonable.

The following sections explore employers' views on how reasonable each individual statutory right is. Employers' views on how easy each right is to manage are discussed in the next chapter.

2.6 Employers' views on protection from unfavourable treatment and time off for antenatal appointments

The two statutory rights relating to pregnancy explored in this section are:

- Protection from being treated unfavourably because a woman is pregnant or on maternity leave; and
- Paid time off to attend antenatal care appointments.

Almost nine in 10 employers felt that these two key statutory rights were reasonable: 88% felt protection from being treated unfavourably because a woman is pregnant or on maternity leave was reasonable; 87% felt paid time off to attend appointments associated with pregnancy was reasonable. However, attitudes towards the right to paid time off to attend appointments associated with pregnancy varied by type of employer. Those least likely to consider this right reasonable were:

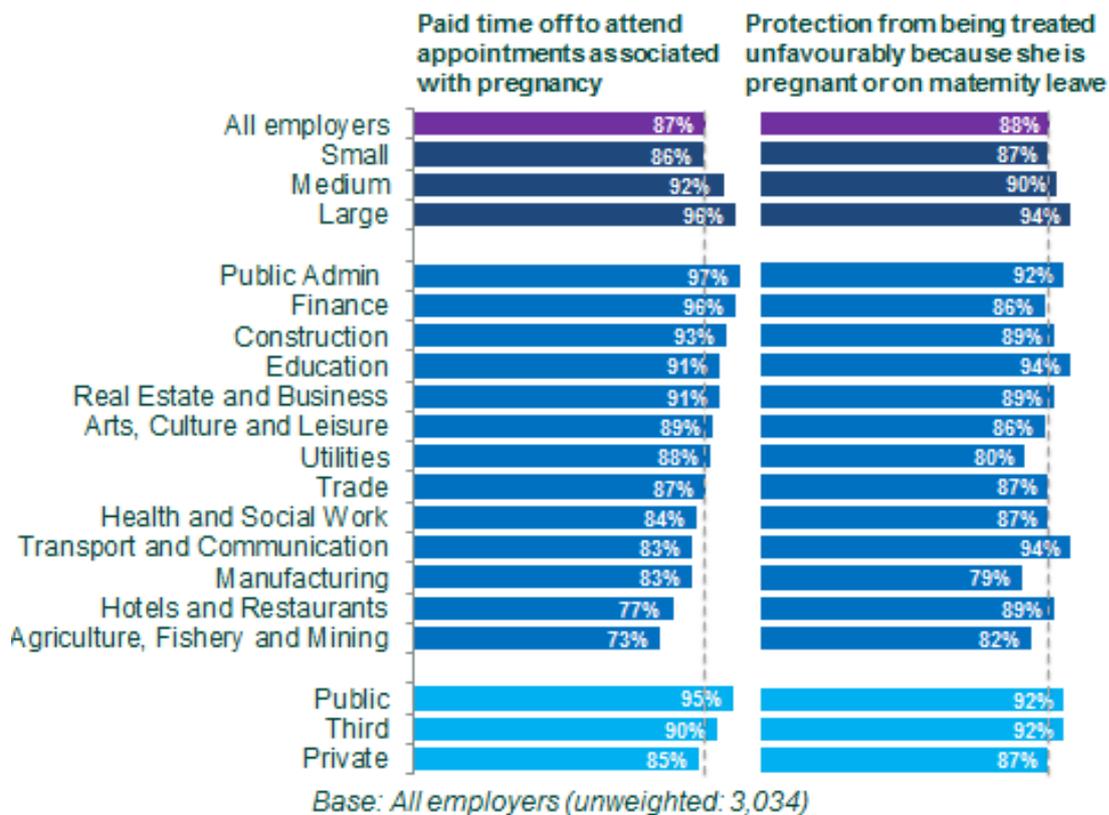
- in Agriculture, fishery and Mining (73%) and Hotels and Restaurants (77%) sectors;
- single-site organisations (84%);
- private sector employers (85%);
- employers not recognising trade unions or staff associations (85%);
- small employers (86%); and

- employers in England (86%). In comparison, 93% of employers in Scotland and 90% of employers in Wales felt these rights were reasonable.

Employers in the North East of England (76%) and those operating in the Manufacturing sector (79%) were the least likely to believe it reasonable to protect pregnant employees and those on maternity leave from being treated unfavourably.

The proportion of employers who found statutory rights relating to pregnancy reasonable by employer size and sector is shown in Figure 2.4.

Figure 2.4: Proportion of employers who found statutory rights relating to pregnancy reasonable



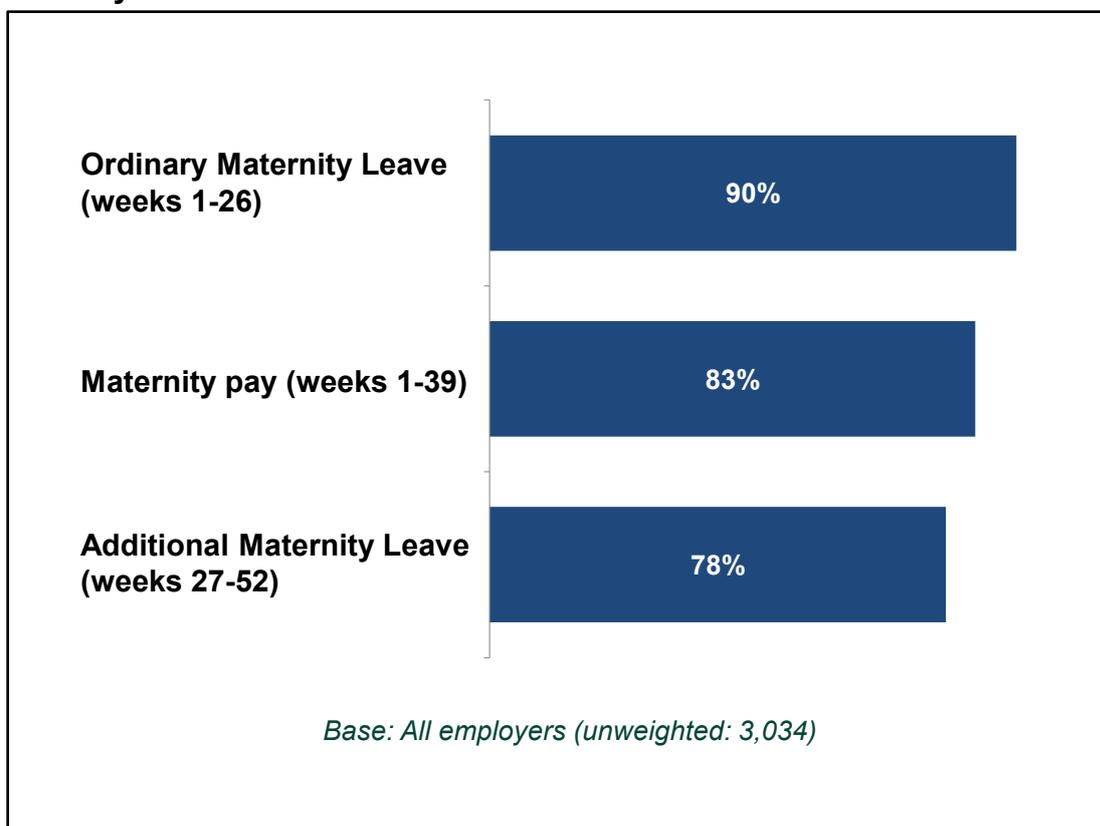
2.7 Employers' views on the statutory rights of mothers on maternity leave

This section explores the following three statutory rights relating to maternity leave:

- Ordinary Maternity Leave (OML);
- Additional Maternity Leave (AML);
- Maternity pay.

The majority of employers felt that OML, AML and maternity pay were reasonable, as shown in Figure 2.5.

Figure 2.5: Proportion of employers who find statutory rights of mothers on maternity leave reasonable



Small employers were less likely to consider the statutory right to OML and AML to be reasonable (89% and 76% respectively), while private sector employers were less likely to consider all three of these statutory rights reasonable (OML 88%; maternity pay 81%; AML 75%).

Employers in the Transport and Communication sector were less likely to consider OML to be reasonable (74%).

Employers less likely to consider AML reasonable as a statutory right included:

- manufacturing sector employers (61%);
- single-site organisations (71%);
- private sector employers (75%);
- small employers (76%); and
- workplaces without trade union or staff association recognition (76%).

There were also differences in the type of employer less likely to find maternity pay reasonable, with the following groups less likely to think it reasonable:

- employers in the Agriculture, Fishery and Mining sectors (66%);
- those operating in the Manufacturing sector (73%);
- single-site organisations (81%);
- private sector employers (81%); and
- workplaces that do not recognise a trade union or staff association (82%).

2.8 Employers' views on the statutory rights of mothers returning to work

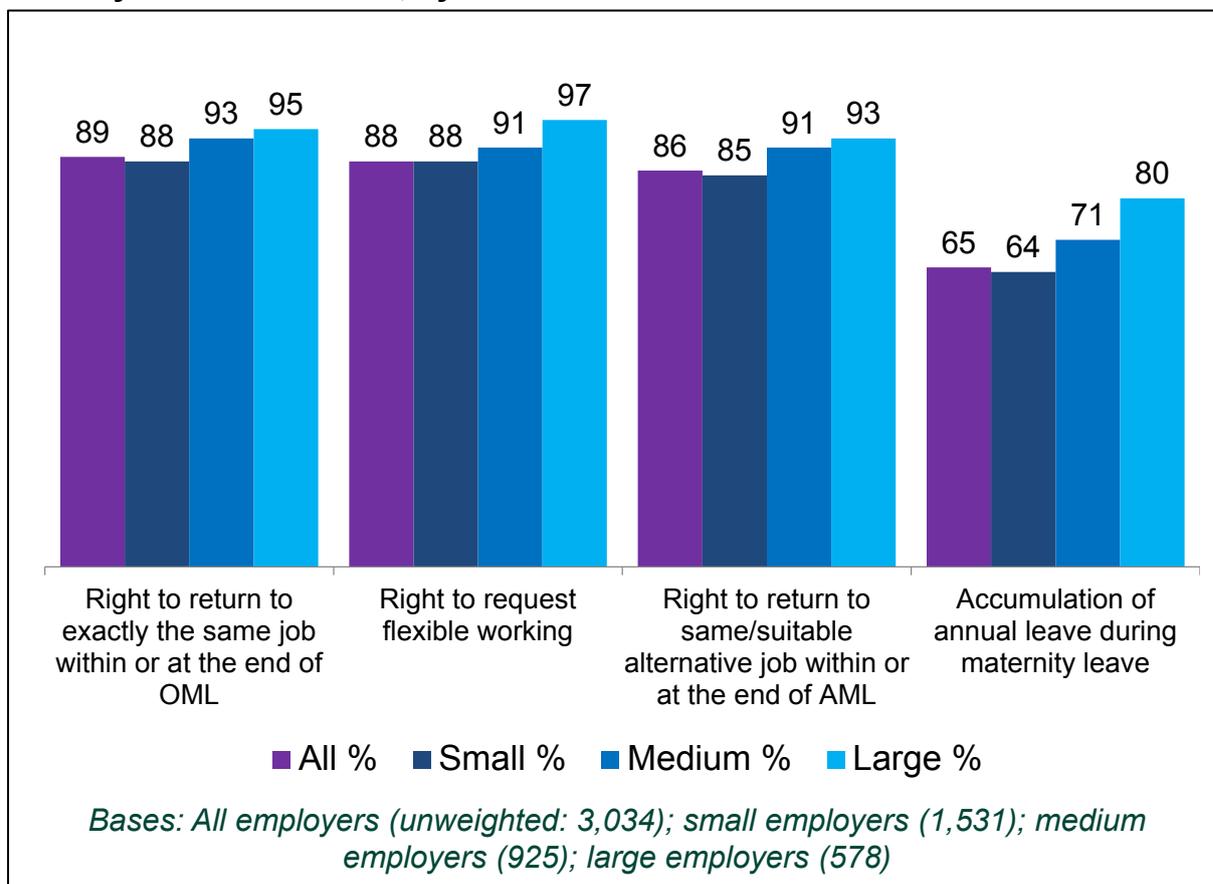
This section explores the following statutory rights:

- the right to request flexible working;
- accumulation of annual leave during maternity leave;
- an employee on maternity leave having the right to return to exactly the same job within or at the end of OML; and
- an employee on maternity leave returning during or at the end of AML having the right to return to exactly the same job, unless it is not reasonably practicable, when they must be offered a suitable alternative job.

As Figure 2.6 shows, the majority of employers felt each of these statutory rights was reasonable, with larger employers more likely to report these rights as reasonable.

While for three of the four rights, the majority of employers (86% to 89%) thought them reasonable, this was far lower (65%) for the accumulation of annual leave during maternity leave – a quarter thought this right was unreasonable. Employers in the North East of England (42%), single site organisations (32%) and workplaces without a trade union or staff association (27%) were all more likely to report this statutory right as unreasonable.

Figure 2.6: Proportion of employers who find statutory rights of mothers on maternity leave reasonable, by size



The Finance (98%) and Public Administration (96%) sectors were most likely to consider the right to request flexible working reasonable as a statutory right; the Utilities (65%) and Manufacturing sectors (83%) were least likely. The Public Administration sector (94%) was also most likely to regard the right to return to the same or a suitable alternative job within or at the end of AML as reasonable.

The Agriculture, Fishery and Mining and the Manufacturing sectors were least likely to consider accumulation of annual leave during maternity leave as reasonable, with 48% and 34% respectively saying this statutory right was unreasonable.

The majority of employers believed the right to request flexible working was reasonable (88%). In contrast, findings from the survey of experiences of mothers showed that a relatively high proportion of mothers who had flexible working requests approved felt this led to negative consequences for them (51%).

The follow-up interviews provided further insight into the ways some employers found it difficult to meet their statutory obligations and why they considered some rights unreasonable. The first case study features an employer who was unsure if they were able to offer a mother returning from maternity leave the same job role.

The employer did not have much experience managing pregnant employees, which led to confusion over the employer's obligations, negative attitudes to recruiting women and towards pregnant women, and decisions to treat the pregnant employee less favourably in relation to bonuses. For instance, although not sure, the employer thinks the organisation behaved unlawfully in relation to the mother's bonus. In addition, the respondent indicated that attitudes existing within the company could make them reluctant to recruit not only pregnant women but also women in general. The employer also believed that women who have more than one pregnancy are a burden on employers.

Case study: Example of an employer who found facilitating statutory rights difficult, 10-24 employees, private sector, Real Estate and Business

*Janet*⁶, a partner in a small organisation, reported that their pregnancy and maternity policies were developed when their first employee, *Eleanor*, became pregnant. They checked their policies with other businesses to see if procedures seemed 'reasonable'.

Janet thinks maternity leave is too long, that businesses struggle to cope with employees who have multiple children, and that her male colleagues believe this is a reason not to hire women.

'Certainly my male colleagues say "That's why we don't employ women" but having said that, the gender has never been an issue when deciding who we want to employ. I've recruited three or four girls in their 20s and they were the best to recruit so we've never had an issue.'

Janet also feels strongly that women should have to tell employers if they are pregnant during recruitment.

'If you have two children quite quickly then for three and a half years you're pretty useless in the workplace and that's too much . . . Once is fine but going off two or three or four times is not fine. I think you should be allowed maternity leave once...possibly twice in the right circumstances.'

She says she will not be able to offer *Eleanor* the same job role on her return, as some of her duties have been passed to a colleague. She says this is inevitable if someone is away from a small team for that length of time.

'The one issue we had was over her pay and what she got as a Christmas bonus and what she was going to get as a bonus when she comes back. We didn't give her as much of a bonus as we might have done if she was staying but that's probably illegal so she felt a bit hard done by but having said that we have arranged a big bonus if she comes back so that's a little bribe to get her back again.'

⁶ Names in italics are pseudonyms

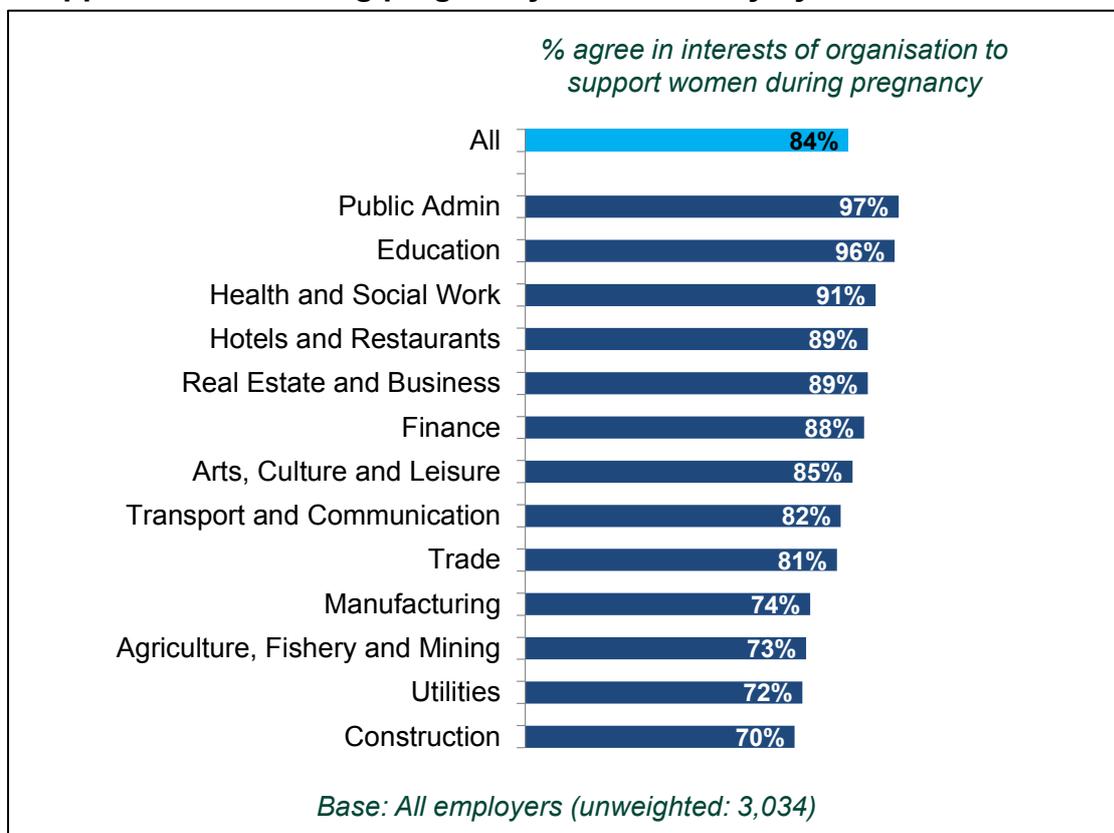
2.9 General attitudes and experiences regarding pregnancy and maternity

More than four in five employers (84%) felt it was in the interests of their organisation to support pregnant women and those on maternity leave. This was significantly less common among:

- construction (70%), Agriculture, Fishery and Mining (73%) and Manufacturing (74%) sectors;
- single-site organisations (79%);
- private sector employers (82%);
- workplaces without trade unions or staff associations (83%);
- small employers (83%); and
- employers in England (83%) and Wales (87%) in comparison to those in Scotland (94%).

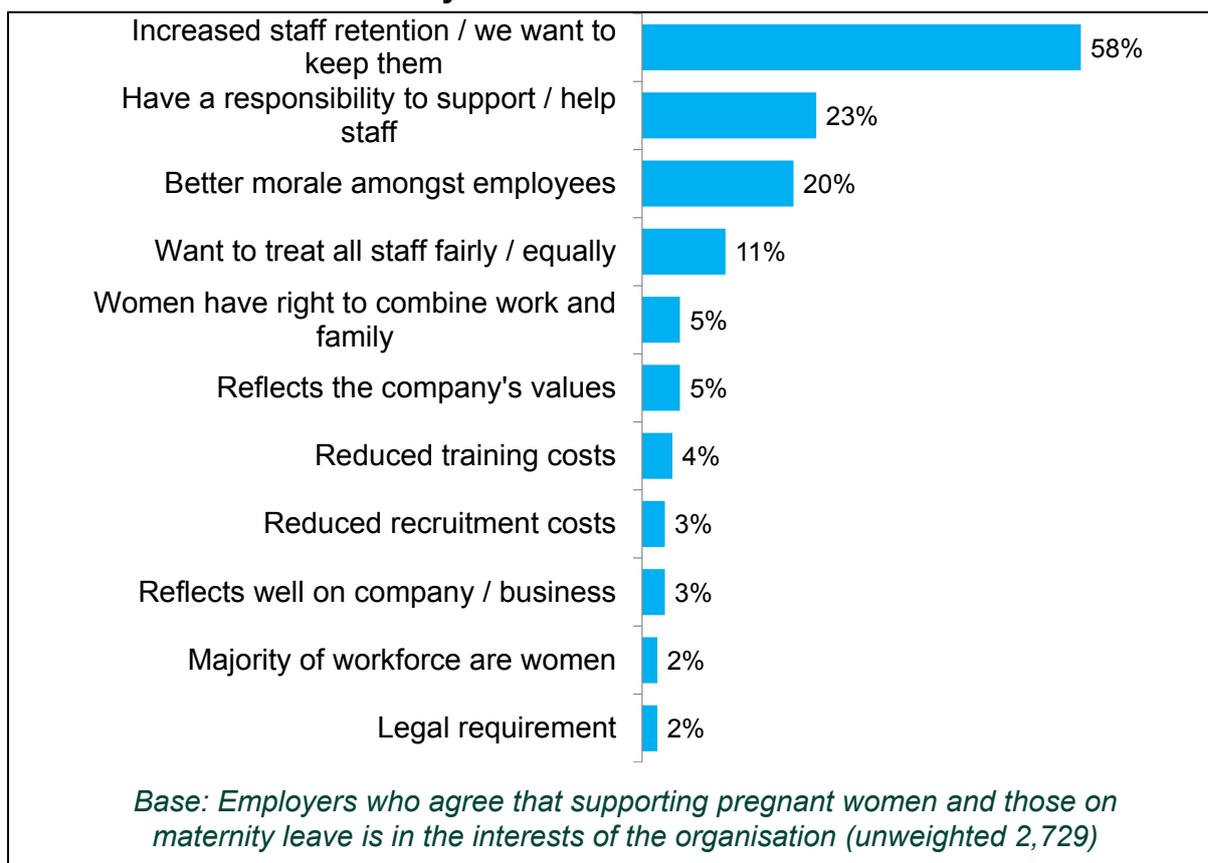
Figure 2.7 shows the extent of employer agreement with the statement that it is in the interests of the organisation to support women during pregnancy and maternity, by sector.

Figure 2.7: Employers' perspective: whether it is in an organisation's interests to support women during pregnancy and maternity by sector



The most common reason employers felt supporting pregnant women and those on maternity leave is in the interests of their organisation was because it increases staff retention (58%). This was more likely to be reported by medium (71%) and large employers (69%). Other reasons included employers feeling they had a responsibility to support staff (23%) and that this support creates a better morale among employees (20%).

Figure 2.8: Reasons employers feel it is in their interest to support pregnant women and those on maternity leave



The following case study from the follow-up interviews provides an example of an employer who felt that supporting pregnant women and those returning from maternity leave improved their staff retention.

Case study: Employer who has a positive attitude to pregnancy and maternity though finds some challenges in providing support, 250+ employees, third sector, Arts, Culture and Leisure

Stephanie is the Head of HR for a large charity. They have only had a few pregnant employees in recent years and the women were all at relatively junior levels. She believes the organisation prides itself on treating pregnant women and mothers well and that this culture is very much ‘from the top down’. Her organisation has a range of written policies on pregnancy and maternity, available to all staff on the intranet.

'We're very much an organisation that is a community and it feels very much

like a family working here, everybody knows everybody . . . [This culture is] led from the top but everybody buys into it...Having a family and everything that goes with it is a life experience, so you come in with a different skillset after you've had children...'

Stephanie says they always bring in maternity cover for the role, and if it is a skilled role they often move someone (in order to develop a member of staff) from another department and backfill the vacated, less skilled role. She plans for maternity leave to last a year even if she is unsure that the mother will want so long. She says that mothers returning from maternity leave always go back to exactly the same role; it is protected for them. *Stephanie* cites an example of where they feel that they have gone beyond statutory requirements in the past, for example holding open a job for a mother who wished to have 18 months' maternity leave rather than 12.

From the perspective of the employer, *Stephanie* says she finds fulfilling their statutory obligations straightforward: they have procedures in place; issue formal letters at set stages (for example, when the pregnancy is announced, after the baby is born); and she feels everything works smoothly, including pay during maternity leave.

Stephanie cites the importance of staff retention, as the organisation invests time in training and finds it hard to recruit staff with the required knowledge and skills.

'We're quite a quirky organisation and it takes a long time to train someone up and understand how the whole thing fits together, so to lose someone is a pain in the neck – you'd rather retain them.'

Stephanie says that the HR team explains the flexible working policy to pregnant employees before they go on maternity leave. They are encouraged to fill in a form with their current hours and ideal hours and then to discuss it with their manager. So far they have been able to grant all requests, though there has been some negotiation with mothers over start and end times.

'We try to be flexible . . . and create contracts that will work for people when they've had children. It definitely helps with retention . . . They know they'll be listened to if they want to adjust their contract, we'll do our best to do that.'

'Normally managers will come to me and say "Do I, don't I?" and my advice is "If you can accommodate it, brilliant, you don't have to, but if you can that would be great, and if you can't, try to meet somewhere in the middle.'"

Stephanie says she is concerned about not being able to meet future requests for flexible working, especially as there is no requirement to prioritise requests from mothers over other workers.

Most employers were positive about the commitment of pregnant employees and those returning from maternity leave. Almost two in three (65%) did not think pregnant women and new mothers were less interested in career progression and promotion than other employees. This view was far more common among large

employers (78%) and those in the third (76%) and public sectors (74%).

Around one in six (17%) believed that pregnant women and mothers returning from maternity leave were less interested in career progression and promotion than other employees, with this higher among:

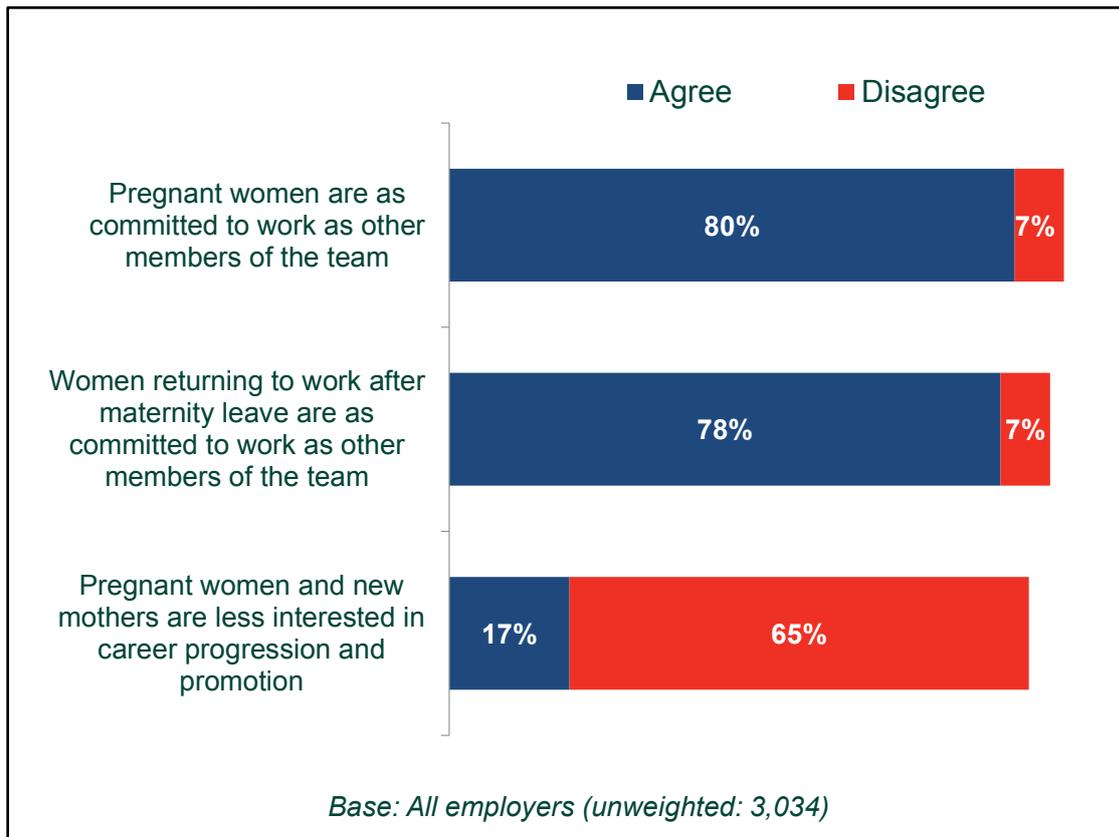
- employers based in the South East of England (26%);
- Hotel and Restaurant sector (23%);
- private sector employers (19%); and
- workplaces without a trade union or staff association (18%).

Four in five employers thought that pregnant women were as committed to work as other employees. This view was more common among large (89%) and medium-sized (84%) employers. Just over three in four employers (78%) thought that employees returning from maternity leave were as committed to work as other employees. This was more common for medium and large employers at 83% and 84% respectively.

Overall, 7% did not think pregnant women were as committed as other members of the team; the same proportion (7%) felt this about mothers returning from maternity leave. These views were more common among:

- Finance sector employers (20% did not think pregnant women were as committed as other employees);
- Manufacturing sector (15% and 12% respectively); and
- establishments based in London (13% and 11% respectively).

Figure 2.9: Employer attitudes towards commitment of pregnant women and mothers returning to work after maternity leave⁷



The follow-up interviews provide further insight into why, according to some employers, they thought new mothers could be less committed to their work than other employees. Some felt it was natural for mothers to change their priorities after having a child, and assumed that mothers would be (at least for a time) less career-driven.

One employer said that rather than lacking commitment, new mothers were likely to lack the same ambition that they had prior to having a child.

'They choose not to go on training for further progression because they're happy as they are – they may be pregnant or they have young children so they're happy with that status right now. It works for them and they're going to have a few years of just plodding along.'

— 250+ employees, Private sector, Manufacturing

⁷ Figures do not sum to 100% because don't know and neither / nor responses are not shown.

In the experiences of mothers' survey, one in 10 mothers reported they failed to gain a promotion they felt they deserved or were otherwise sidelined either while working when pregnant, while on maternity leave or when they returned after maternity leave. The follow-up interviews with mothers revealed several examples of mothers who felt they had missed out on promotions as a result of pregnancy, or were effectively demoted. Some were taken aback at how their career progression had stalled, and felt their employer had little interest in them while they were at the stage of having young children.

Where employers adjusted their expectations of pregnant women in more senior roles, some interviewees reported that not all women wanted this (or that these women did not want to be seen to be putting in less effort).

'I think those in senior roles perhaps feel more pressure not to stop working or have to change how they are working. It's not us putting that pressure on them, it's more their own ambition.'

— 100-249 employees, private sector, Hotels and Restaurants

These qualitative findings about employer expectations reflect the results of the mothers' survey. When employers adjusted their expectations of mothers some began to feel less valued or respected as a result. For example, mothers commonly reported that they felt there was 'a price to pay' for having flexible working requests approved. Around half of mothers who had their flexible working request approved said they experienced unfavourable treatment as a result:

- One in three (32%) said they felt uncomfortable asking for time off or additional flexibility;
- Three in 10 (29%) said they were given fewer opportunities than other colleagues at the same level;
- Around one in six said they received negative comments from their employer or colleagues (16%), were given more 'junior' tasks than previously (15%), or felt their opinion was less valued (16%).

Employers had different views on the performance of pregnant women. Most often employers reported observing no change in attitude or performance, despite having some initial fears.

'I will be honest, I wondered if [having a baby] would affect change, but both [pregnant] women have been very professional and their work ethic has been the same.'

— 50-99 employees, private sector, Construction

A few employers reported an increase in pregnant women's productivity or commitment, which they attributed to women wanting to prove their worth or ensure they kept their job.

'I've noticed an increased productivity, maybe as they try to accommodate more things into each day. They give you a 12 hour shift between 10 and four, working at 200 miles an hour to make sure it's done and you know

they're capable.'

— 25-49 employees, third sector, Public Administration

Some employers reported a reduction in work hours among pregnant employees. Some employers said that they were happy to accept this as they do not lose skills and expertise of experienced staff.

'A couple of people have come back on two or three days a week and as the child got older they have been able to increase their hours again because it benefits them and [the employer] because you are not losing that expertise.'

— 250+ employees, public sector, Public Administration and Defence

2.10 Whether employers feel pregnant employees 'abuse' their rights

Most employers with a pregnancy in the workplace within the last three years did not think any pregnant employees had abused their rights (78%). However, one in seven (14%) employers with a pregnancy in the workplace in the last three years thought women had abused their rights during pregnancy: this was more common among those with a current pregnant employee (18%) and among large employers (23%).

In the follow-up interviews employers who said they thought women abused their rights during pregnancy or on return to work often felt this way due to suspicion about 'excessive' sickness during pregnancy. Chapter 3 provides a discussion of reported difficulties managing sickness absence.

2.11 Pregnancy putting an unreasonable cost burden on their workplace

One in five employers with a recent experience of pregnancy felt that pregnancy puts an unreasonable cost burden on their workplace (which rises to 27% across all employers). Among those with a recent experience of pregnancy, small workplaces were more likely to feel that pregnancy puts an unreasonable cost burden on their workplace (22% compared with 16% of medium-sized and 9% of large employers), as were employers with fewer than 250 staff employed across the whole organisation (27%). Employers without a recent experience of a pregnancy at the workplace were more likely to feel the cost burden would be unreasonable (32%) than those with this experience.

3. Difficulties managing issues relating to pregnancy and maternity

This chapter examines the ease or difficulty with which employers:

- Facilitate the statutory rights relating to pregnancy and maternity; and
- Manage a range of other issues relating to pregnancy and maternity.

All findings in this chapter are based on employers with a recent experience of pregnancy (within the last three years).

3.1 Summary

One in four employers said all statutory rights relating to pregnancy and maternity were easy to facilitate. Some statutory rights were more difficult for employers to facilitate:

- One in five (19%) said that accumulation of annual leave during maternity was difficult to facilitate;
- Around one in six (16%) said AML was difficult to facilitate.

Some employers also reported difficulties with managing issues relating to pregnancy, maternity leave and mothers returning from maternity leave, in particular:

- 26% found it difficult to manage the uncertainty about whether mothers on maternity leave will return to work. The employers who found this difficult to manage were more likely to have less frequent contact with mothers on maternity leave than those who did not find it difficult. For employers who found this difficult to manage, 47% of them were in touch with mothers once a month or less during maternity leave, compared with 16% of employers who did not find this difficult;
- 18% found it difficult to arrange and manage maternity cover. This was higher among small (19%) and medium-sized (15%) employers than large employers (9%);
- 17% found it difficult to manage the impact of part-time or flexible working during pregnancy or on return from maternity leave.

Employer size was often an important factor determining an employer's likely response: the largest employers were the least likely to report difficulties resourcing and managing maternity pay and leave, but most likely to express concerns around resentment and workload management of the wider team. Employers in the Finance sector were twice as likely as average to express concerns around

resentment and workload management of the wider team and almost twice as likely as average to hold negative attitudes around the commitment and value of pregnant employees and new mothers.

3.2 Ease of facilitating statutory rights overall

One in four employers said all statutory rights relating to pregnancy and maternity were easy to facilitate. Overall, 10 different rights were explored and a further one in four said that eight or nine of these were easy to facilitate. This left around one in five (21%) who found six or seven easy to facilitate and almost three in 10 (29%) that found half or fewer of the statutory rights easy to facilitate.

Employers in large organisations were more likely to find all statutory rights easy to facilitate (41%).

Ease of facilitating each individual statutory right is explored below.

3.3 Time off for antenatal appointments

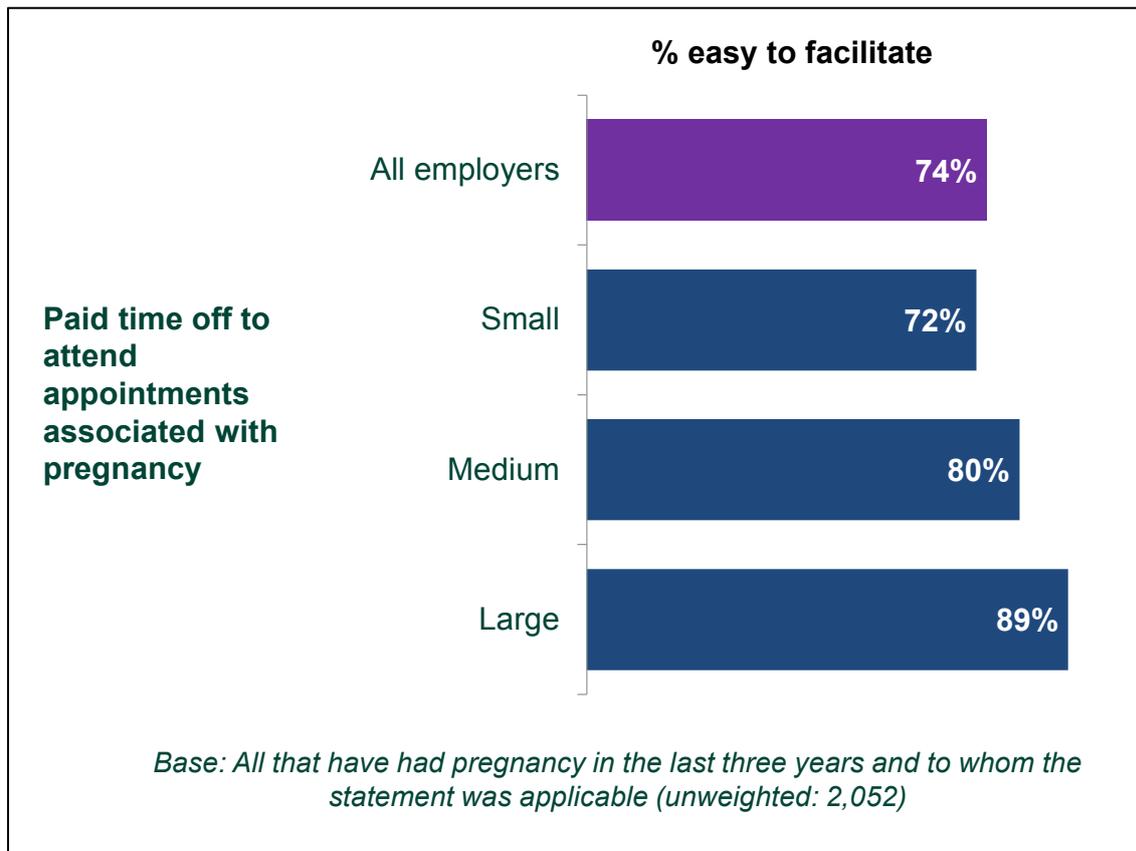
Around three in four employers (74%) said that giving employees paid time off to attend antenatal appointments was easy to facilitate.

One in 10 employers reported that allowing women paid time off to attend antenatal appointments was difficult to facilitate. Of the employers that reported this, the main reasons given by employers were that:

- Antenatal appointments add significant costs to the business (34%);
- It is difficult to find short-term, temporary workers to replace them (27%);
- It puts additional pressure on other staff (11%);
- It is disruptive to administrative and operational aspects of the workplace (7%); and
- It is too much time away from work for non-work related reasons (7%).

The proportion of employers who said they found it easy to facilitate paid time off to attend antenatal appointments increased with size of employer (Figure 3.1).

Figure 3.1: Proportion that find statutory right for paid time off to attend appointments associated with pregnancy easy to facilitate by size of employer



3.4 Maternity pay and leave

Around three in four employers (77%) said they found maternity pay easy to facilitate.

Employers were less likely to find maternity leave easy to facilitate. Two in three employers with a recent experience of pregnancy found OML easy to facilitate, and just under three in five employers found AML easy to facilitate (59%).

Around one in six (16%) employers found AML difficult to facilitate, with the main reasons being the difficulty of finding suitably skilled temporary workers (24%) or short-term temporary workers (22%) to cover absent mothers. Other reasons included:

- AML adds significant costs to the business (17%);
- Small businesses lack the resources to cope (16%); and
- Uncertainty over whether the employee will return (14%).

Small employers were most likely to find AML difficult to facilitate (18% compared

with 10% of medium employers and 3% of large). This view was also particularly common in the Manufacturing sector (36%).

3.5 Right to request flexible working and accumulation of annual leave during maternity leave

Three in five employers (61%) found the accumulation of annual leave during maternity leave easy to facilitate. One in five (19%) said that accumulation of annual leave during maternity was difficult to facilitate.

Large employers (71%) were more likely to find the accumulation of annual leave during maternity leave easy to facilitate than medium-sized (65%) and small (60%) employers. Where employers considered it difficult to facilitate the accumulation of annual leave during maternity leave, this was most often because employers reported that it added significant costs to their business (28%).

Two in three employers (67%) found the right to request flexible working easy to facilitate.

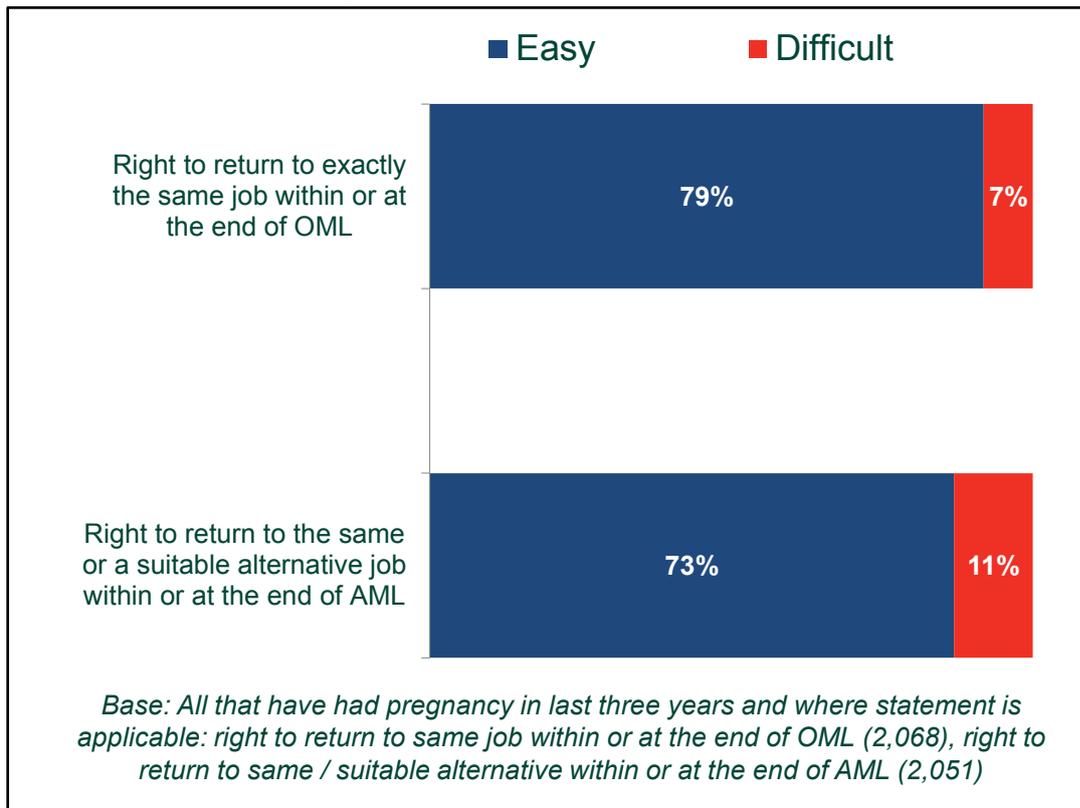
3.6 The right to return to the same job or suitable alternative job

As Figure 3.2 shows, four in five employers (79%) found it easy to facilitate the right of an employee to return to exactly the same job within or at the end of OML. Around one in 14 (7%) felt this was difficult to facilitate.

A higher proportion (11%) said it was difficult to facilitate the right of an employee to return to exactly the same the same job (or a suitable alternative where this is not reasonably practicable) within or at the end of AML and this was higher among:

- employers in the East of England (24%);
- Hotels and Restaurants sector (17%);
- single-site organisations (16%);
- employers without trade union or staff association representation (14%);
- private sector employers (14%);
- small employers (13%); and
- employers in England (12%) in comparison to employers in Scotland (3%). 10% of employers in Wales found it difficult and this is not statistically significantly different compared to that for employers elsewhere in Great Britain.

Figure 3.2: Views on managing the return to work of employees on Ordinary and Additional Maternity Leave



Most often, employers found it difficult to facilitate the right to return to the same or a suitable alternative job within or at the end of AML because they felt it was disruptive to the business (35%). Some employers said it was difficult to dismiss or move the individuals covering their position (22%).

Of those employers who experienced an employee returning after maternity leave, around one in 10 (9%) reported difficulties with regards to them returning either to same job or a suitable alternative:

- 3% of employers who had an employee returning after maternity leave experienced difficulties offering the same job at the end of OML (3%);
- 3% had difficulties offering the same or a suitable alternative at the end of AML;
- 4% had difficulties under both these circumstances.

The law states that 'suitable' should be considered in terms of job content and in terms of comparability of terms and conditions, including location. In the follow-up interviews, employers had different interpretations of what the right to return to the 'same' or a 'suitable alternative' job meant, as the following examples show.

'So long as the role and salary is the same, and you're still working for the

organisation [it's the same job]...but we might need to put you somewhere else. Our main concern is that we're able to offer the same position to you. Once or twice we've had to do that, and from staff point of view the different location can sometimes feel like a 'new' job, because you're working with a different staff team, a different manager, work location. So for the staff member returning it could feel quite scary.'

— 25-49 employees, Third sector, Health and Social Work

'They don't have the right to return to exactly the same job but the same grade and type of work. I don't think we could move someone to another city office. Geographical location would have to be the same. The grade is the same and in the same area/programme – if we wanted to move them we would have to have a discussion.'

— 10-24 employees, public sector, Public Administration

On the whole, employers felt that 'suitable alternative' meant employees should be able to return to the same pay, status, environment and overall function, although some duties or the location of work may differ.

3.7 Protection from unfavourable treatment

Almost nine in 10 (89%) employers said it was easy to protect employees from being treated unfavourably because they are pregnant or on maternity leave.

1% said they found this statutory right difficult to facilitate. This increased to 7% of employers in Wales (compared to 1% in England and less than 0.5% in Scotland).

In contrast, results from the experiences of mothers' survey found that over three in four mothers (77%) said they had a negative or possibly discriminatory experience during pregnancy, maternity leave, or on return from maternity leave. There is a clear difference between employers' views on how easy it is to protect women from being treated unfavourably and the extent to which mothers feel they have been protected.

Employer experiences of facilitating enhanced protection from redundancy for pregnant employees and those on maternity leave is covered in Chapter 10.

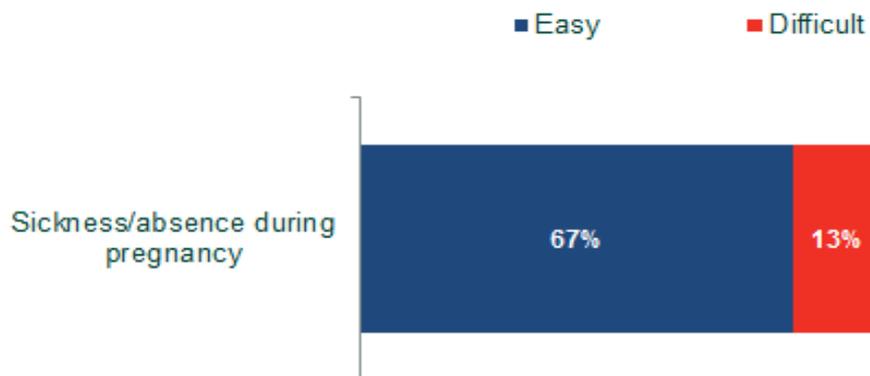
Employers' awareness of and attitudes towards statutory rights is discussed in Chapter 2.

The rest of this chapter addresses employers' difficulties managing a range of other issues related to pregnancy and maternity.

3.8 Managing sickness absence during pregnancy

One in eight employers (13%) said they found it difficult to deal with sickness or absence in pregnancy. This was most difficult for employers in the Manufacturing (22%) and Health and Social Work (19%) sectors.

Figure 3.3: Ease of managing issues relating to sickness/absence during pregnancy⁸



Base: All that have had pregnancy in last three years and where statement is applicable (unweighted: 1,959)

In follow-up interviews with employers who found it difficult to manage sickness absence, some said they suspected that employees might be taking advantage of their pregnancy and were uncertain whether the absence was legitimate. Some found arranging cover for short term absence challenging.

'I worked with someone in the past who was ill at the drop of a hat and needed lots of special privileges. I would end up doing long days to cover her work. It can be easy to plead not fit.'

— 5-9, private, Hotels and Restaurants

In the follow-up interviews employers reported using different approaches to managing pregnancy-related illness. Some accommodated the specific needs of pregnant employees, for example where sickness absence was more regular, some employers provided greater flexibility such as later start times, change in shift patterns, and working from home. Other employers managed sickness in pregnancy in the same way they would any other staff sickness absence. It should be noted that this does not adhere to statutory requirements as employers must treat pregnancy-related illness differently than they should other employee sickness. For instance, employers must record any pregnancy-related sickness absence separately from other sick leave, so that pregnancy-related sickness

⁸ Figures do not sum to 100% because don't know and neither / nor responses are not shown.

absence is not used as a reason for disciplinary action, dismissal or redundancy.

'They are treated like any other employee when they are ill.'

— 10-24 employees, private sector, Utilities

'One lady was very prone to morning sickness, so it meant getting going in the morning was an issue. The issue was discussed between the individual and the line manager. The line manager took advice from HR and HR basically [said] the GP needs to make that medical decision and that medical certificate covers her for full pay up until the time she chooses her maternity period. It was agreed that they had a bit more flexibility on their start time and if they were in in the afternoon and not feeling well they can let the line manager know and manage the flexitime accordingly. We also have working from home where if the job can be done from home...those options are available if needed.'

— 250+ employees, public sector, Public Administration

3.9 Managing costs and other issues related to maternity leave

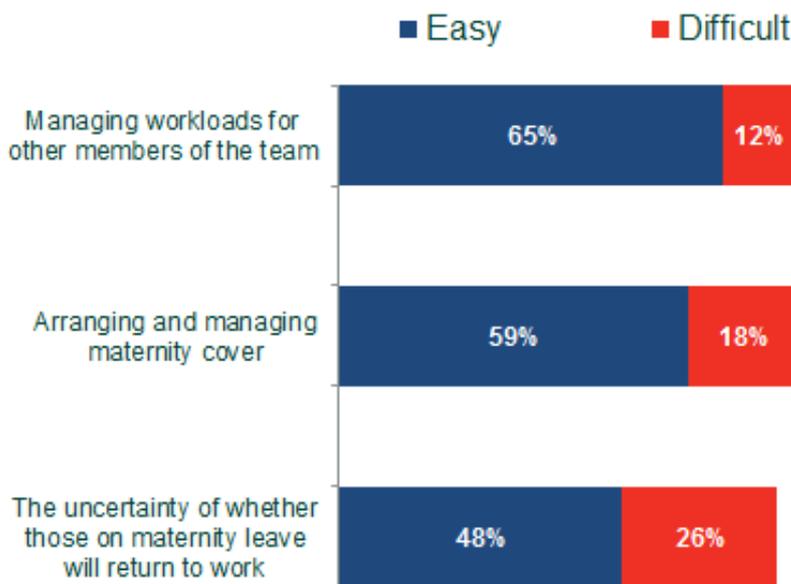
Around two in three employers said they found it easy to manage the costs associated with Statutory Maternity Pay (SMP) (67%).

A similar proportion said they found it easy to manage the workloads of other members of the team (65%).

59% of employers said it was easy to arrange cover for those on maternity leave and 18% said this was difficult. This was higher for small (19%) and medium employers (15%) compared to large employers (9%).

In addition, around one in four employers (26%) with a recent experience of pregnancy felt uncertainty over whether those on maternity leave would return was difficult to manage.

Figure 3.4: Views on ease of managing issues relating to maternity leave



Base: All that have had pregnancy in last three years and where statement is applicable: Workloads (2,049); Arranging cover (2,021); Uncertainty (2,037). Does not sum to 100% because 'Don't know' and 'Neither/nor' responses not shown.

The follow-up interviews included examples of employers who found that the lack of clarity and notice about whether a woman would return from maternity leave was challenging for their business planning. Some employers felt that mothers 'dictated' the decision about returning to work; others believed that mothers were reluctant to have open discussions about their return fearing it would put them at a disadvantage (for example that it might have an impact on their maternity pay).

'As the employer, it does almost feel that the decision process about returning to work is almost "dictated" by the returnee – it doesn't really feel like a collaborative process or a joint decision...it feels a bit one-sided.'

— 50-99 employees, private sector, Construction

'There is a lack of clarity around the return to work. It's all a bit of a charade, "I'm not going to say I'm not coming back as it might affect maternity pay". So that element is frustrating.'

— 50-99 employees, private sector, Real Estate and Business

In some organisations employers had arranged specific maternity cover, which they felt caused some problems if a mother wanted to arrange an 'early' return to work. Employers also said it could be challenging if the maternity cover was performing particularly well, and they were keen to keep them on. For one employer, it appears that one of their employee mothers returning from maternity leave may have been treated unlawfully as it was reported that attempts were made to 'block' her from

returning to her previous position.

'We had an issue two years ago with someone returning from AML and the manager felt that [he would like] a bending of the words for "return to a similar position" [because] the alternative he found to cover the leave was preferable to the returner. Every request from the returner [for her old position back] was met with resistance for no reason other than there was a preferred alternative.'

— 250+ employees, private sector, Manufacturing

In the follow-up interviews some employers organised maternity cover by sharing the work among other team members. Some employers said this occasionally caused resentment among colleagues and managers due to additional pressures on team members and difficulties managing workloads.

'It can be hard [when mothers are on maternity leave] especially when we have quite small teams. But that's a senior management question – are we putting enough resource into covering maternity leave? Nine times out of 10 we bring in short-term cover, but by the time they've been trained, others in the team may feel they're being lent on a bit too much. That's probably more from the male members.'

50-99 employees, private sector, Finance

'When someone tells you they are pregnant you have to think about when they are leaving and whether we will arrange cover or share out responsibilities, so that's [a concern] about the workload.'

— 10-24 employees, third sector, Real Estate and Business

3.10 Management of return to work

Employers were asked how easy they found it to manage:

- Sickness absence among mothers returning to work; and
- The impact of part-time or flexible working.

Most employers found it easy to manage levels of sickness for those returning from maternity leave (74%). Large employers (80% compared with 72% small) were more likely to say it was easy to manage sickness absence.

Almost one in six employers (17%) found it difficult to manage the impact of part-time or flexible working with no differences by employer size.

Figure 3.5: Ease of dealing with issues related to pregnant workers and mothers returning to work following maternity leave



Base: All that have had pregnancy in last three years and where statement is applicable: Sickness/absence for those returning from maternity leave (unweighted: 1,862), Impact of part time/flexible working (unweighted: 1,981). Does not sum to 100% because 'Don't know' and 'Neither/nor' responses not shown.

3.11 Managing temporary workers

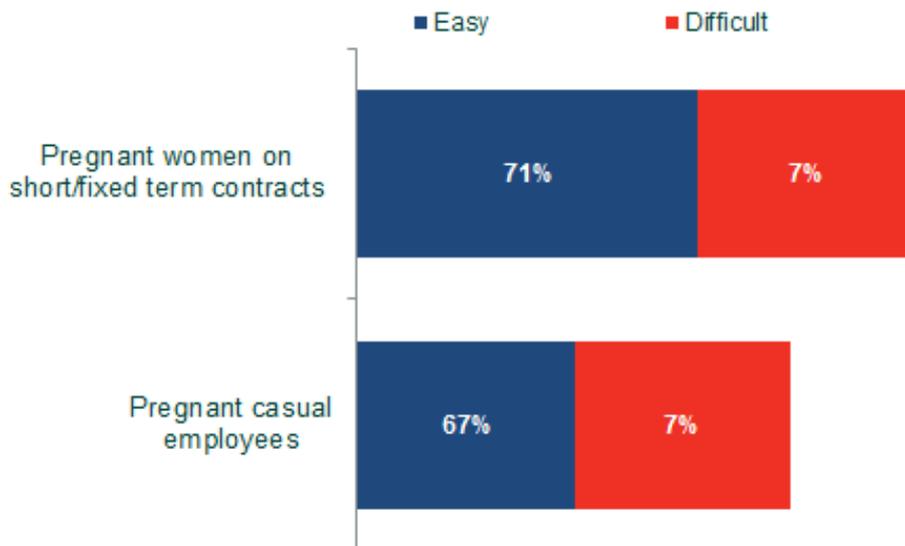
This section explores:

- Managing pregnant women on short/fixed-term contracts; and
- Managing pregnant casual workers.

Most employers with a recent experience of pregnancy said each of these were easy to manage.

Figure 3.6 shows that around seven in 10 employers found it easy to manage the pregnancy of temporary workers. 71% found it easy to manage pregnant women who were on short or fixed-term contracts and 67% found it easy to manage pregnant casual employees. The main reason cited was the ease of finding replacement staff (24%).

Figure 3.6: Ease of managing issues relating to pregnant temporary workers



Base: All that have had pregnancy in last three years and where statement is applicable (unweighted): Pregnancy among casual employees (653), Pregnancy among those on short/ fixed term contracts (930).

Does not sum to 100% because 'Don't know' and 'Neither/nor' responses not shown.

3.12 Managing pregnancy and maternity issues for managerial and professional staff

Employers were asked whether they found it more difficult to manage pregnancy and maternity issues for managerial staff and those in Professional occupations. Over one in four employers (27%) said they did, and this increased to more than a third (34%) of large employers.

This reflects the findings from the mothers' survey. One in eight mothers (13%) who were employed in a Senior manager or director role felt less valued after announcing their pregnancy. Around one in five (22%) of the highest earning mothers (over £60,000 a year) felt unsupported on their return from maternity leave despite feeling supported during pregnancy.

3.13 Managing negative attitudes of other employees

One in seven employers (15%) thought their employees could sometimes feel resentful of new mothers and pregnant colleagues. Indeed, the mothers' research found that one in five mothers said they had experienced harassment or negative comments related to their pregnancy or flexible working from their employer and/or colleagues; if scaled up to the general population this could mean as many as 100,000 mothers a year.

Over one in 10 employers (12%) felt employees who had more than one pregnancy could be a burden to the team.

Four in five employers (82%) said they found it easy to manage the negative attitudes of other employees. Only 5% of employers reported finding this difficult, falling to 1% among public sector employers, compared with 6% in the private sector.

In the follow-up research employers generally felt there was little or no resentment towards pregnant women and mothers returning from maternity leave from other colleagues – it was common for employers of all types to describe a supportive atmosphere and a positive view of relations between colleagues.

'Here they [other staff] are really good and very supportive and we have no issues with that [negativity towards pregnant women or returning mothers]. None of our staff ever feel there is any prejudice.'

— 100-249 employees, public sector, Education

'There's no negativity – it's all fine. It's quite a close-knit job and we are all a team. We're very supportive.'

— 5-9 employees, private sector, Hotels and Restaurants

In follow-up interviews, a small number of employers reported some negative reactions at senior level relating to the difficulty of replacing or covering staff taking maternity leave. A few said some line managers had raised issues about managing workloads or complained about the inconvenience of staff taking maternity leave. However, in these cases the interviewees felt the complaints or negativity had been discussed with them, rather than with the mother.

'We have had experience in the business where there is a bit of angst from the senior management team about people possibly leaving. A senior marketing manager [who was pregnant] a couple of years ago was not irreplaceable but very difficult to replace and that did cause a little bit of a flutter among board members...for key positions it is certainly a concern [when senior staff become pregnant].'

— 250+ employees, private sector, Manufacturing

The only area where employers recognised line managers or colleagues might make negative comments directly to pregnant women or mothers returning from maternity leave was in relation to working from home or other flexible working. In these cases, HR intervened only when there was a perception that comments were 'malicious' rather than what was judged to be 'banter'. In these cases it did not appear that employers were aware that legally, harassment is not determined by the intention of the person who has caused offence, but whether it has this effect on the recipient.

'There may be [negative comments] regarding working from home...some regard it as a day off a week.'

— 50-99 employees, private sector, Finance

'If it's really malicious [comments] we'd definitely step in, but if it was just a bit of moaning [about a colleague being pregnant] I would say to the manager, if they've heard [someone making negative comments], can they just put them straight or put them in the picture or explain what's happening; the lady's going to return in six months and that's the end of it.'

— 250+ employees, private sector, Transport and Communication

3.14 Providing guidelines, training or other support for managers

Two in five employers (41%) said they provided some form of guidelines, training or other support for managers on managing pregnancy and maternity. The 55% that did not were more likely to be small employers (57%).⁹ They were also more likely to be private sector organisations (59%) and in the Agriculture, Fishery and Mining (76%), Manufacturing (76%), and Construction (74%) sectors.

Most often this was providing health and safety guidelines (97% of those providing any guidance) or statutory rights guidelines (94%). Of those who provided any guidance, two-thirds said they provided training for line managers on managing pregnancy and maternity (equivalent to 27% of employers overall). This was more likely to happen in the private (69%) and public sectors (64%) in comparison to the third sector (50%).

The follow-up interviews provided very few examples of specific training and support for line managers in this area. In some cases policies were available for reference, but training or discussion had not taken place.

'[Have they had any training?] No. I had some in my previous job and probably I'm the one that actually needs it. I could probably do with a brush up, but it's not high up on my list of training needs.'

— 5-9 employees, third sector, Arts, Culture and Leisure

In some instances, HR staff had attended courses that covered management of pregnancy and maternity, though this information was rarely shared with colleagues. Some line managers had access to HR consultants for advice.

'We're invited regularly to these forums and they usually have different topics. It was just interesting to get the up-to-date legislation as it came about and it's really good because they don't charge us anything for attending. We attend two or three times a year. It's either myself and the finance manager together, just my finance manager or just me on my own depending on workloads. They're really good little sessions.'

⁹ 4% of employers did not know if they provided guidelines, training or other support.

We've also got an HR Lawyer that specialises in HR Law. If there are any issues we don't know the answer to we usually go to them for advice.'

— 25-49 employees, private sector, Transport and Communication

In follow-up interviews a small number of employers said they had a dedicated guide or specific training for managers.

'HR staff [have training] through seminars or with our employment law advisors, so the team would go to legislative updates and so on about how to manage those situations. Then the HR team then train the managers on legislative changes and requirements.'

— 250+ employees, private sector, Manufacturing

'We administer maternity for the organisation so we have more knowledge of the conditions that apply, but in terms of training, the organisation has created employee and manager guides and our staff would offer advice to managers so it's a general part of their training.'

— 250+ employees, public sector, Transport and Communication

Case study: Example of employer providing training and support for line managers, 250+, private sector, Manufacturing

A large manufacturing company described providing training, in response to observed hostility to pregnant women and new mothers among some staff. As a result, the employer thinks treating pregnant employees well is now seen to create loyalty and employees react well to the news of a colleague's pregnancy.

'It's changed [attitudes towards pregnancy]. In the past it was outright hostility focussed on resourcing problems. With...training and cultural change it [pregnancy] is not viewed as a negative. It's an opportunity to engender loyalty in the long term...when you hear of a pregnancy being announced now, it is done openly and there is positivity about the news. There used to be fear [among pregnant employees] of the response from the rest of the organisation.'

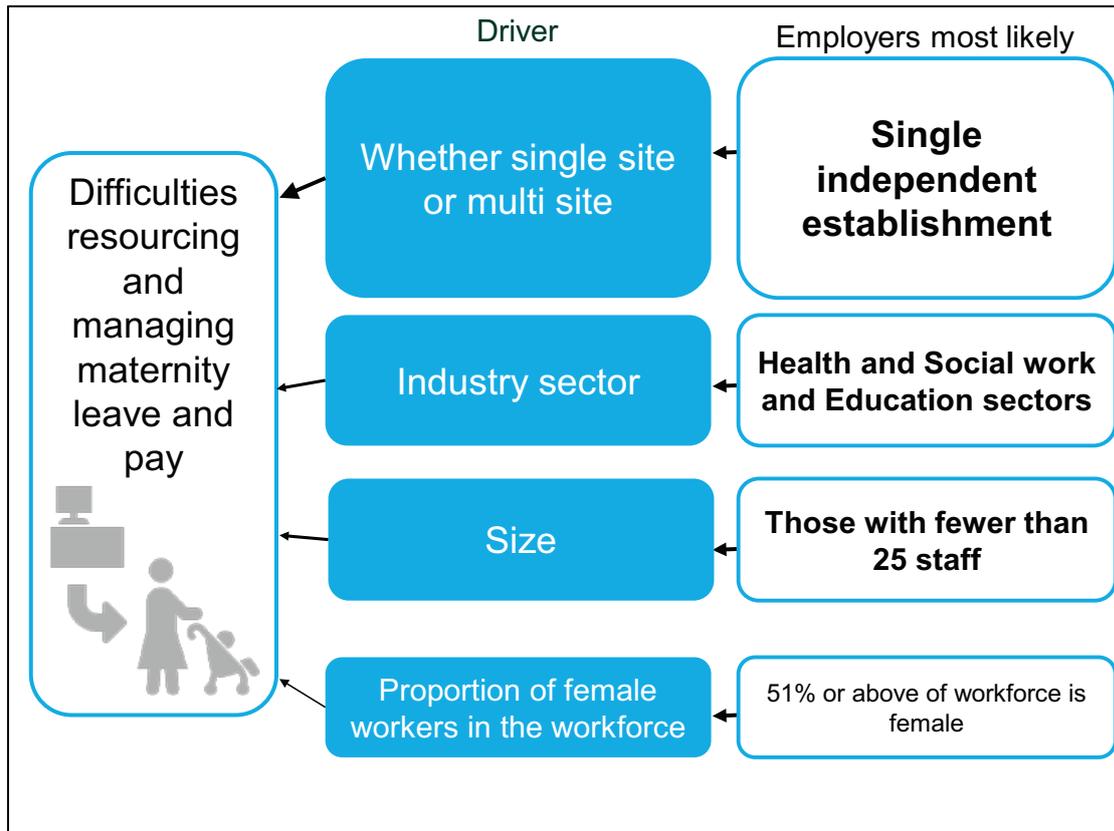
3.15 Difficulties resourcing and managing maternity pay and leave

The main factors determining whether employers reported difficulties relating to resourcing and managing maternity pay and leave were:

- whether they were a single site establishment or part of a larger organisation;

- industry sector;
- size; and
- the proportion of female workers in the workforce.

Figure 3.7: Drivers of difficulties relating to resourcing and managing maternity pay and leave



Whether the employer was part of a larger organisation or not was more than twice as important in determining whether employers experienced difficulties relating to resourcing and managing maternity pay and leave than each other factor.

Employers operating in the Health and Social Work and Education sectors were the most likely sectors to have experienced difficulties of this nature, and were around twice as likely as those in the Trade sector to have done so, who were among those least likely to have experienced these difficulties.

Employers with fewer than 25 staff were around three times as likely as large employers (250+ staff) to have experienced difficulties relating to resourcing and managing maternity pay and leave.

Those with a majority female workforce were more than twice as likely to experience difficulties in this area as those with 10% or fewer female employees.

3.16 Difficulties managing absence, uncertainty and flexibility

The two main factors determining whether employers reported difficulties managing absence, uncertainty and flexibility were:

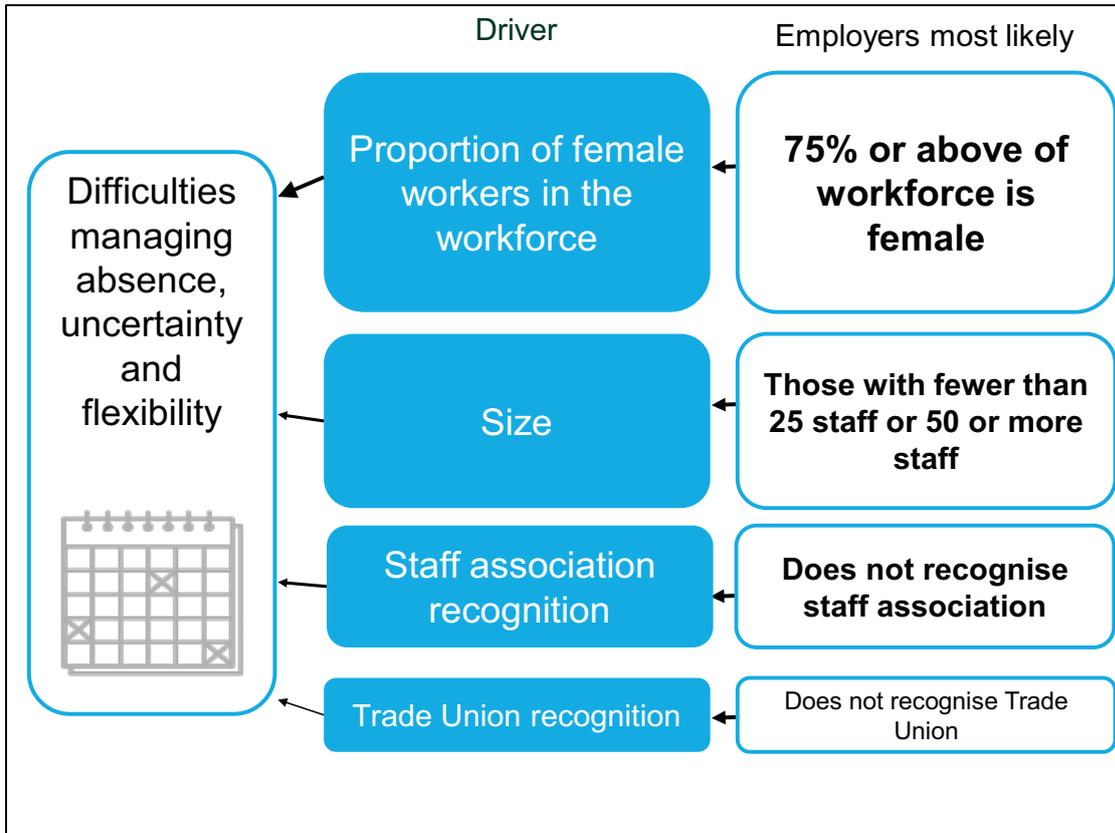
- proportion of the workforce that were female; and
- size.

As with difficulties resourcing and managing maternity pay and leave, Figure 3.8 shows that employers with a high proportion (75% plus) of female employees were more likely to experience difficulties managing absence, uncertainty and flexibility. For example, in regard to managing the impact of part-time or flexible working during pregnancy or on return from maternity leave, 20% of workplaces where at least three-quarters of their workforce was female found this difficult, compared with 14% among those with a lower proportion of female employees. Difficulties resourcing and managing maternity pay and leave were more likely to be reported by those where at least half their workforce was female.

In contrast with resourcing and managing maternity pay and leave, employers with 25-49 staff were most likely to find managing absence, uncertainty and flexibility easy. For example, 70% found it easy to manage sickness absences during pregnancy compared with 61% of all employers with a recent pregnancy.

Employers recognising a trade union or a staff association were less likely to experience difficulties managing absence, uncertainty and flexibility. 17% of employers recognising a trade union or staff association found it difficult to manage the uncertainty of whether those on maternity leave would return to work, compared with 27% of those not recognising either a trade union or staff association.

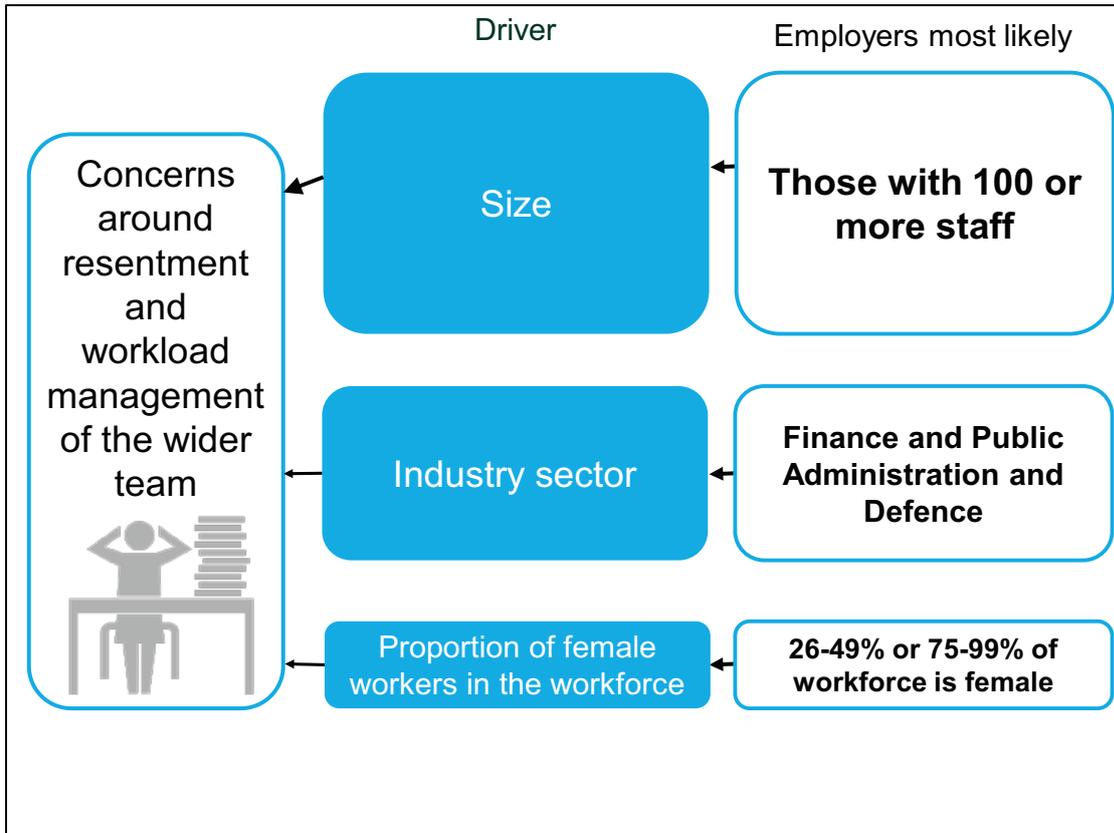
Figure 3.8: Drivers of difficulties managing absence, uncertainty and flexibility



3.17 Concerns around resentment and workload management of wider team

Employer size was the main factor determining whether an employer expressed concerns around resentment and workload management of the wider team. This was more important than both sector and proportion of the workforce that were female put together. Large employers were most likely to report concerns around resentment and workload management of the wider team; they were around four times as likely to do so as the smallest employers (fewer than 10 staff).

Figure 3.9: Drivers of concerns around resentment and workload management of the wider team



Generally, the larger an employer, the more likely they were to report concerns around resentment and workload management of the wider team. Employers operating in the Finance sector and Public Administration organisations were both around twice as likely as average to report concerns in this area.

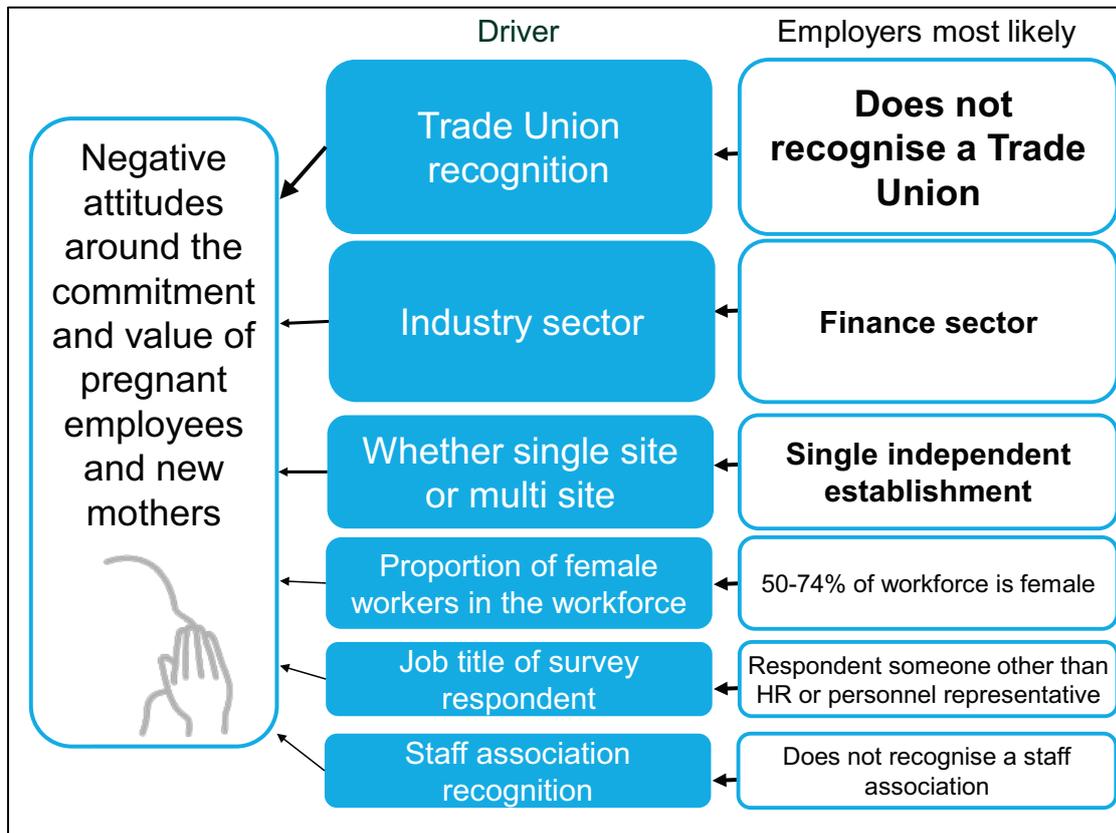
3.18 Negative attitudes around the commitment and value of pregnant employees and new mothers

The key factors determining whether employers held negative attitudes around the commitment and value of pregnant employees and new mothers were (in order of importance):

- whether or not the employer recognised a trade union;
- industry sector;
- whether they were a single site establishment or part of a larger organisation;
- proportion of the workforce that was female;

- the job title of the survey of employers' respondent; and
- whether the employer recognised a staff association.

Figure 3.10: Drivers of negative attitudes around the commitment and value of pregnant employees and new mothers



Employers who did not recognise a trade union or a staff association were around twice as likely to hold negative views as those who did.

Finance sector employers were almost twice as likely as average to have negative attitudes around the commitment and value of pregnant employees and new mothers. Employers in the Trade and Construction industries were half as likely as average.

Single site organisations, those with a workforce around (or slightly over) half female and those where someone other than a HR or personnel representative took part in the survey interview were all more likely than average to express negative attitudes around the commitment and value of pregnant employees and new mothers.

4. Identification and management of risks

This chapter covers the identification and management of risks for pregnant women and those returning from maternity leave, examining the extent to which:

- employers conduct general risk assessments and identify risks for pregnant women and mothers returning after maternity leave;
- discussions about risks take place between employers and pregnant women/mothers returning after maternity leave;
- risks are managed.

A risk assessment involves an employer thinking about what might cause harm to employees and deciding whether they are taking reasonable steps to prevent that harm. An employer is legally required to carry out a general risk assessment, although employers with fewer than five employees do not need to write anything down.

Employers are not legally required to conduct a specific risk assessment once an employee informs them they are pregnant. However, as part of the process of carrying out a general risk assessment for their employees, employers should consider employees of childbearing age, including pregnant women and new mothers, assessing risks that may arise from any process or working condition.

If an employer identifies a significant health and safety risk which goes beyond the normal level of risk found outside the workplace for an employee who is pregnant or a new mother, an employer must temporarily adjust the employee's working condition and/or hours, or if that is not possible offer the employee suitable alternative work (at the same rate of pay). If that is not possible, the employer must suspend the employee from their work on paid leave for as long as necessary to protect the health and safety of the mother and baby.

4.1 Summary

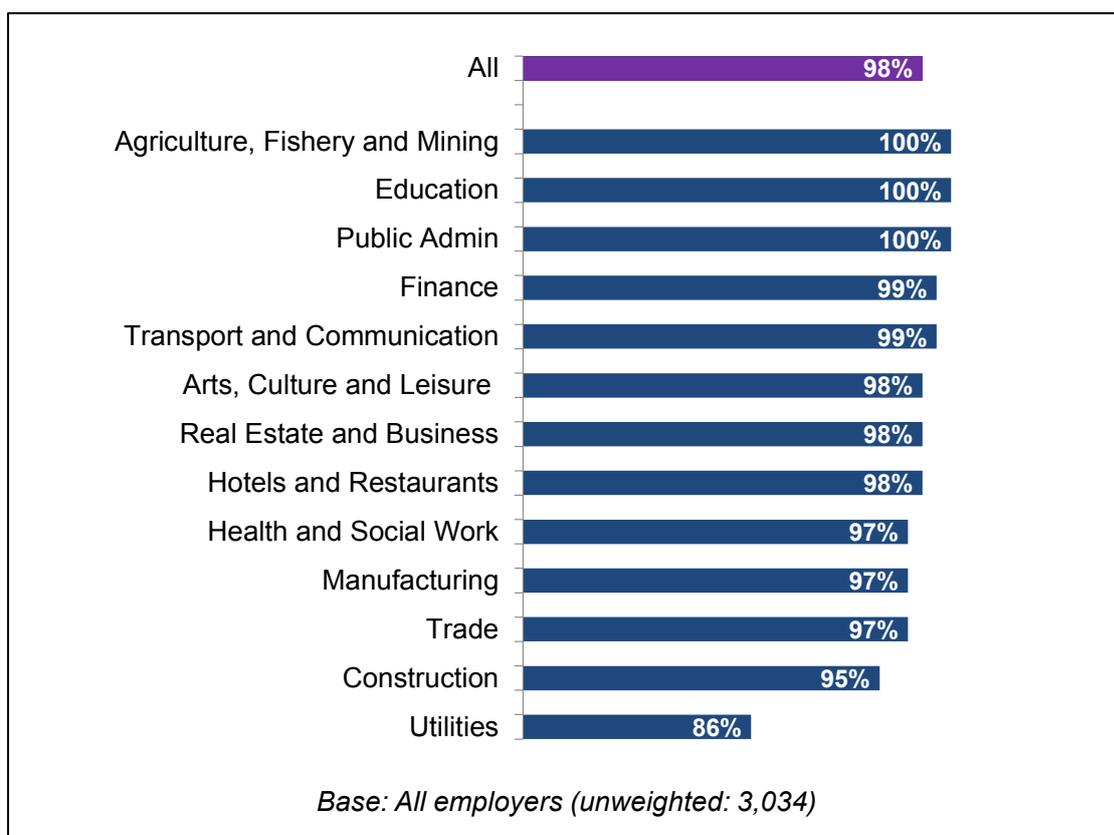
Nearly all employers (98%) undertook a general health and safety risk assessment for the activities of their business. It was common for general risk assessments to identify risks for pregnant women or those returning from maternity leave. Among workplaces conducting these assessments around two in five (41%) identified risks to pregnant women and new mothers, equivalent to two-thirds of those with a pregnancy or woman returning from maternity leave in the last three years.

Around half of employers (53%) with a recent pregnancy (in the last three years) in their workplace had changed the duties of pregnant women as a result of risks they had identified. The same applied to one in nine employers (11%) who changed the duties of mothers returning following maternity leave.

4.2 Employer health and safety risk assessments

Almost all employers (98%) reported conducting a general health and safety risk assessment for the activities of their business. All medium- and large-sized workplaces reported doing so, compared with 97% of small workplaces. Employers in the Utilities (86%) sector were the least likely to conduct a general health and safety risk assessment for their employees. In comparison, all employers operating in Agriculture, Fisheries and Mining, Public Administration and Education undertook risk assessments. Figure 4.1 shows the full breakdown of prevalence of risk assessments conducted across sectors.

Figure 4.1: The proportion of employers conducting risk assessments by sector



In the follow-up interviews almost all employers said they understood their legal responsibility to conduct general health and safety risk assessments, and that this included ensuring a safe working environment for pregnant women and mothers returning from maternity leave. However, employers had varied approaches to ensuring a safe working environment for pregnant women and new mothers. Some employers felt that after a woman had told them she was pregnant, they should carry out a specific risk assessment, regularly reviewed as the pregnancy progressed; others felt general risk assessments covering all employees were sufficient. As discussed at the beginning of this chapter, employers are not legally required to conduct a specific risk assessment once an employee informs them they are pregnant.

'We have a risk assessment we complete with them [pregnant employees]. We discuss what their needs and capabilities are as soon as someone declares a pregnancy and then sit down every now and again throughout pregnancy to see how things are going and adjust as necessary.'

— 50-99 employees, private sector, Trade

The follow-up interviews showed that most employers were proactive in identifying risks and managing these risks for pregnant employees. Risk assessments tended to focus on issues such as lifting, desk/chairs, breaks and shift patterns, chemicals, and workload/stress. As a result, management of risks tended to involve adjusting duties (for example ensuring no lifting) and changing work patterns (for example avoiding long shifts or morning shifts if the employee had morning sickness), and allowing more working from home.

'We would give them roles that wouldn't jeopardise the pregnancy by handling heavy goods. We'd have to look at how they were coping with the period of pregnancy and if we felt that from their regular medical check-ups, they were experiencing difficulties like blood pressure and the things that go with being pregnant, we'd have to consider the hours they are working and if we thought they were getting too tired we'd have to advise them to cut back.'

— 25-49 employees, private sector, Transport and Communication

'We've had cases last year when one of our employees was travelling during rush hour and she was suffering from terrible back pains so we adjusted her hours so that she didn't have to come during rush hour. So she came late and left late.'

— 50-99 employees, private sector, Trade

In some cases it was evident that an employer had identified and tackled areas of risk which the employee themselves had not considered. In the following example, the employer felt that exposure to members of the public was a risk to their pregnant employee (this concern was also common in the Health and Social Care sector where employees work in potentially high-risk situations).

'You sometimes come across irate taxi drivers or doormen so there is a risk of injury if you're hit or attacked by somebody. My view was that the risk of that happening hadn't increased but the consequences of it happening did. A person that might be injured by someone assaulting them is bad enough but the consequence of perhaps losing a baby was a higher risk so we took her off night time enforcement. She hadn't thought of that but when I suggested it to her she accepted it.'

— 250+ employees, public sector, Public Administration

Employers often discussed fostering an environment conducive to open discussion about risks, with an expectation that employees would raise potential risks themselves (alongside those identified by the employer). In some cases, it was a line

manager's responsibility to identify risks through observation, rather than any formal process delivered by the HR function within the workplace.

'With our pregnant employee it was all done through informal checking and mutual discussion as to what was needed. It is her body – she knows what things she can and can't do, so we just used common sense and asked regularly if she was okay.'

— 5-9 employees, private sector, Hotels and Restaurants

'As an employer I think we need to be flexible and we do have policies on this but [it's important] being open enough so that the employee can have discussions with us about health and safety concerns. I think we would expect people to come to us and say "I'm struggling" or "this isn't working" or "how can we kind of work together to fix this." We don't really set up meetings but we might have a manager come to say, "I'm a bit concerned about this" or "she's not coping very well".'

— 100-249 employees, private sector, Finance

While it is a legal obligation for employers to regularly review general workplace risks, there is no legal requirement to conduct a specific, separate risk assessment for pregnant women and returning mothers. In the follow-up interviews some employers indicated that they took steps to identify risks to employees returning following maternity leave. Their approaches tended to be informal, such as general discussions regarding their return to work, or a standard 'return to work' interview, with the responsibility on the mother to raise any issues. Some mentioned that these discussions often moved towards issues around flexible working rather than health and safety risks or management.

'There is a return to work interview, but nothing overly formal...you'd like to think at that point that any issues or any requirements would be highlighted [by the mother].'

— 50-99 employees, private sector, Finance

4.3 Meeting legal health and safety requirements for pregnant employees and mothers returning to work from maternity leave

In the follow-up interviews, most employers were fairly confident that they were compliant with health and safety legislation for pregnant employees and mothers returning from maternity leave. In larger organisations there was often a heavy reliance on head office or central HR teams to provide guidance and policies to workplaces and/or line managers to ensure compliance.

'I feel pretty confident in terms of the procedures we have. We have very clear policies and guidelines, as we're part of a huge organisation, set in central HR for all our hotels. So we just follow those very strictly. Any changes in legislation would be communicated by the central HR team'

through a new policy.'

- 100-249 employees, private sector, Hotels and Restaurants

'I am given guidance on managing the process by Group HR and their specialist Maternity team. There are written processes and procedures, verbal advice on "do's and don'ts" and I can check everything with them as needed.'

- 50-99 employees, private sector, Construction

In some cases organisations relied on external legal advisors or health and safety consultants rather than central HR for this function, or monitored HR bulletins to keep up-to-date with legislative changes.

Some larger employers reported having active health and safety or occupational health departments/representatives, and felt they were fully aware of legal requirements.

'The centralised corporate labour law team sends out briefs, delivers training courses and issues material to the sites. Beyond that legal support there is an expectation within the HR function to remain topical, for our standing as a professional body.'

- 250+ employees, private sector, Manufacturing

The following case study provides an example of how responsibility for risk assessments is shared across: managers; HR teams; health and safety specialists; and employees themselves in large companies.

Case study: Example of employer who takes a proactive approach to managing risk both in pregnancy and on return to work, 250+ employees, private sector, Utilities

Patricia is HR Manager, responsible for a unit within a very large company. The company has had 30 pregnancies in the last three years. She says the company has a formal process and the HR team ensures managers know how to manage pregnant employees and women on maternity leave.

'It's quite easy for us, [we are a] very supportive organisation. We have policies in place . . . as long as the manager comes and asks the right questions we know what our obligations are and we know how to support our people. It's fairly easy . . . Managers understand their role and . . . we're keen to give our managers and our people all the information and support they need.'

Patricia says as soon as managers are told of a pregnancy they are expected to undertake a risk assessment, with three taking place during the pregnancy and one on return from maternity leave where they check if any previous needs are still in

place. As a company they generally feel it is easy to make any required adjustments such as providing footrests or 'doughnut seats'. *Patricia* stated that the organisation ensures pregnant women have car spaces if required, inform first aiders and fire wardens in case of an evacuation and also have occupational health facilities available.

Employees are expected to contribute to their assessments, but *Patricia* sees it as the company's responsibility to foster an environment where employees recognise health and safety is important.

'We need to create a health and safety culture and an environment that is safe for all our people to work in, so the responsibility, although it lies with companies to make sure that the environment is there, it's down to each individual to make sure that they are safe at work as well.'

To stay up to date with legislation, *Patricia* says they have monthly meetings and get regular updates from their internal health and safety specialists. The HR team also run regular training sessions for managers and cascade information.

Patricia believes their comprehensive approach to health and safety contributes to employees wanting to return, and that how managers implement their policies is important.

'[There was one example] of the lady who had complications. During the pregnancy she wasn't aware until later on that there was an issue so she knew that . . . the baby would have health conditions and we gave her all the support or the time off. The manager was constantly making sure from day one we gave DSE [Display Screen Equipment] assessments, we made sure we looked after her, gave her all the appointments she needed. . . . She's back in the business . . . She was one of our very high performers and it was managed very well by that manager.'

Although most employers in the follow-up interviews felt they were meeting legal requirements, some (usually small employers) acknowledged that it could be hard to keep up to date with the legislation. Some waited until a pregnancy occurred to investigate what the current legal requirements were.

'[On employer's key responsibilities around health and safety for pregnant women and those returning to work from maternity leave] I'm not very sure about this really. I updated the company handbook on it about 18 months ago, so looked through all the detail then with a fine toothcomb, on GOV.UK and ACAS, but we're probably not that up to date on changing legislation now.'

— 10-24 employees, private sector, Real Estate and Business

There were a few employers who said they struggled to keep up to date with health and safety legislation (generally, as well as in relation to pregnancy), and they were

not clear what their current responsibilities were.

The following employer explained how, as a small charity, they find it hard to prioritise keeping up to date on these issues.

Case study: Example of an employer who found it difficult to keep up to date with health and safety legislation, 5-9 employees, third sector, Arts, Culture and Leisure

As Personnel Director for a small museum, *Rumina* found it hard to keep up to date with legislation surrounding pregnancy and maternity leave; it was not an issue she prioritised. Although the workforce is predominately female, there have only been three pregnancies in the last 25 years. They paid an external HR company to produce their pregnancy and maternity policies.

'I could probably do with a brush [up]. But it's not high up on my list of training needs. ...[N]o one had been pregnant for a long time and they were worried about policies being up to date. They outsourced HR support to a remote HR firm . . . this meant . . . all of the policies were completely up to date. So everything was on the computer. Because I'd let the HR support lapse . . . I read things in the paper and I'm interested as a manager. I probably wouldn't do a big review of our policies until the next time someone told me they were pregnant.'

Rumina felt health and safety was dealt with in a very informal way. She acknowledged there were risks for *Juliet* [the most recent pregnant employee] in her everyday work but there was no formal risk assessment undertaken, either general or specific. (Note: employers are not legally required to conduct a specific risk assessment once an employee informs them they are pregnant. However, as part of the process of carrying out a general risk assessment for their employees, employers should consider employees of childbearing age, including pregnant women and new mothers, assessing risks that may arise from any process or working condition).

Rumina assumed *Juliet* would have raised any issues with her manager.

'We did watch her with carrying stuff and a couple of times did have to say – "Don't do that". Had she just left it someone would have just done it for her but human instinct being what it is, you just want to get on and do stuff.'

Where workplaces provided guidelines, training, or other support for line managers covering pregnancy and maternity-related issues (41% of workplaces), almost all (97%) covered health and safety guidelines. This was lower among employers in the Construction sector (82%). One in 25 employers had sought advice or information on health and safety issues relating to pregnant women or those returning from maternity leave in the last three years.

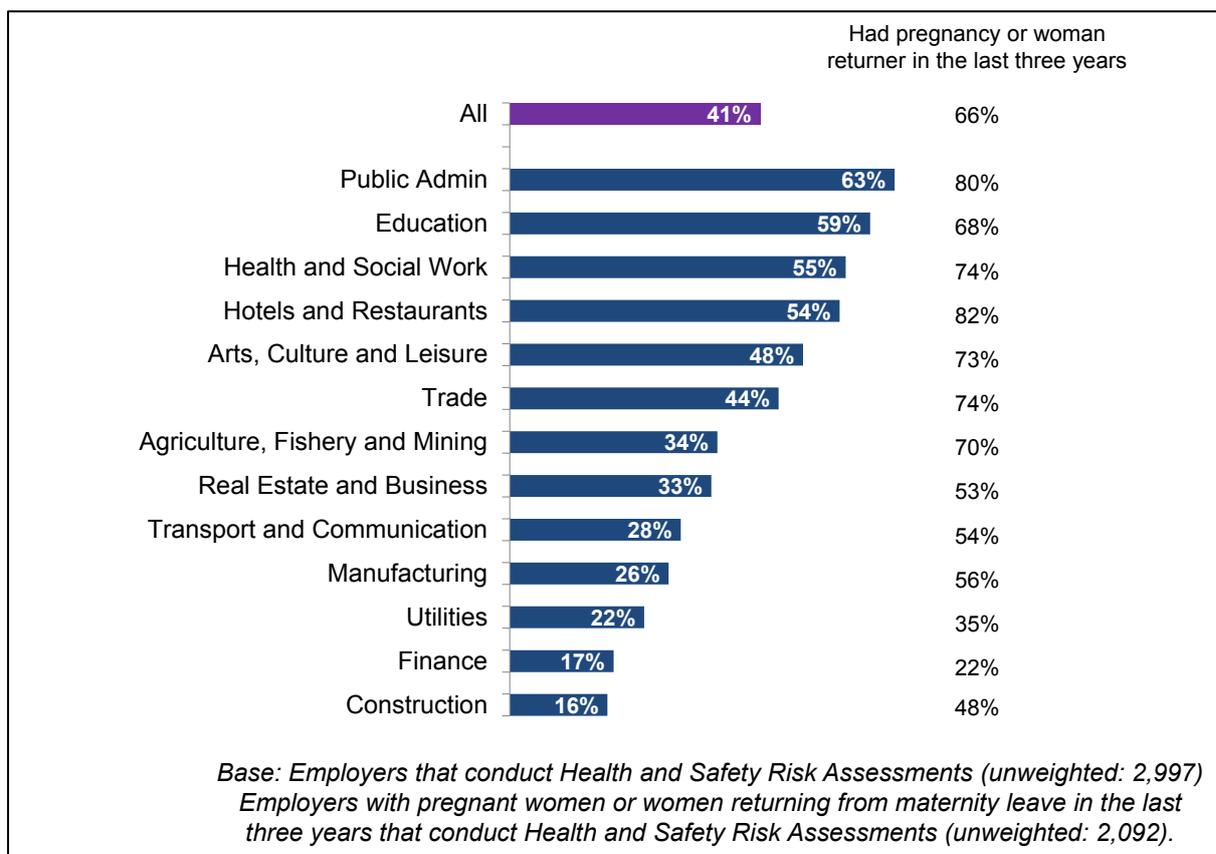
4.4 Identifying risks to pregnant women and mothers returning from maternity leave

Figure 4.2 shows that over two in five of all employers who had conducted general risk assessments (41%) had identified risks to pregnant women and mothers returning from maternity leave. Overall, two-thirds of employers who had conducted general risk assessments and had a pregnant employee or mother returning from maternity leave in the last three years had identified risks for these employees.

This was highest among:

- large (84%) and medium-sized employers (73%);
- employers operating in Hotels and Restaurants (82%); Public Administration (80%); Health and Social Work (74%); Trade (74%); and Arts, Culture and Leisure (73%) sectors. This compares with less than one in four (22%) in the Finance sector; and
- those operating in the public sector (76%).

Figure 4.2: Employers identifying risks for pregnant women or those returning from maternity leave, by sector



In contrast, the survey of mothers reported half of all mothers (49%) were informed by their employer of risks to them or their baby. It was not uncommon for pregnant women or mothers returning from maternity leave to identify additional risks: almost one in five mothers (19%) said they identified risks their employer had not.

4.5 Action taken to address risks by employers with a pregnancy in the last three years

Two-thirds of employers (65%) with a pregnancy in the last three years had altered the duties of at least some of their pregnant employees. A health and safety risk assessment identifying risks was the most common reason for altering these duties (82%): overall just over half of employers with a recent pregnancy (53%) said they altered the duties of at least one pregnant employee due to risks identified in a health and safety risk assessment. This was higher among large workplaces (76%) and public sector employers (64%). It is important to note that this does not imply these employers are better at identifying and then dealing with risks. They may well simply have more pregnant staff for whom a risk could be identified (or may have workplaces with greater risks).

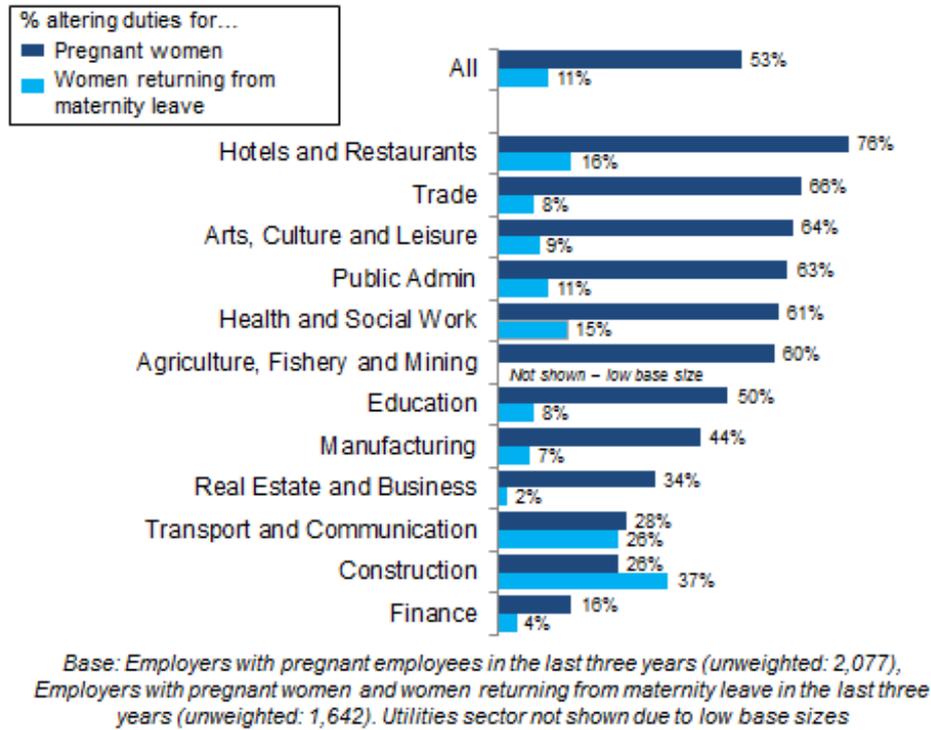
Results were similar between large public and large private employers. However, within medium-sized employers those in the public sector (66%) were more likely to have altered duties due to risks identified in a risk assessment than those in the private sector (56%).

Results also varied widely by sector (see Figure 4.3), from 76% for employers in the Hotels and Restaurants sector altering duties due to risks identified in a risk assessment, to 16% for employers in the Finance sector.

Overall, 11% of employers with any mothers returning from maternity leave in the last three years had altered duties for at least some of these staff as a result of identifying risks on return from maternity leave.

Results from the mothers' survey show that while most mothers who had been made aware of risks by their employer felt all the risks were tackled (77%), 4% of all mothers said they left their employer as a result of risks not being tackled.

Figure 4.3: The proportion with pregnant employees and/or mothers returning from maternity leave altering their duties due to risks identified, by sector



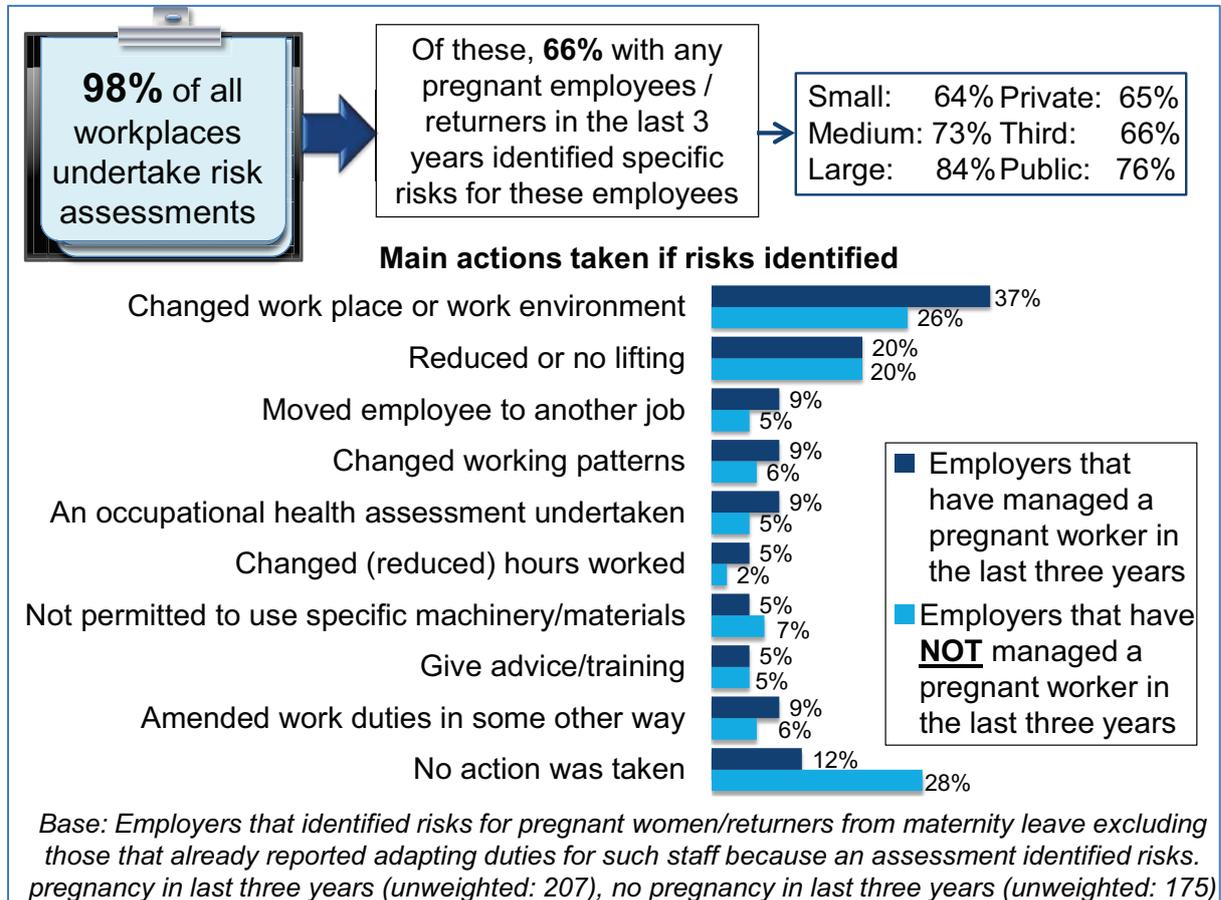
Employers were asked to give examples of actions they had taken to alter the work duties as a result of risks being identified for pregnant employees and mothers returning from maternity leave. The most common actions, as summarised in Figure 4.4, were:¹⁰

- changing the work environment for pregnant women or mothers returning after maternity leave (31%), for example by moving to a ground floor location or providing a new chair;
- reducing or removing any requirement for lifting (19%);
- changing work patterns (8%);
- moving the employee to another job role (7%);
- undertaking an occupational health assessment (7%);

¹⁰ Results are taken from question D3, a base of 402 respondents. This is a sub-set of those making changes as a result of health and safety risk assessments. B8 covered similar topics, but examined the responses made either to a health and safety risk assessment, the employee requesting a change, or for some other reason. B8 cannot isolate changes made because of a health and safety risk assessment where other reasons also contributed to the change.

- preventing the employee from using specific machinery and/or materials (6%).

Figure 4.4: Employers' perspective: summary of risk assessment practice and actions taken for identified risks



The follow-up interviews revealed various approaches employers took when they identified risks to pregnant employees. In some cases they chose to remove particular duties from women immediately, whereas others preferred to monitor and review the situation as the pregnancy progressed, making adjustments in consultation with the employee.

'I would say to the supervisor straightaway not to let them do any heavy lifting and not too much hoovering. That kicks in immediately after they tell us they are pregnant.'

— 50-99 employees, private sector, Real Estate and Business

'Once we are told of a pregnancy, we do a pregnancy risk assessment for things like lifting, late shifts, etc. We will talk about it with the person involved and do a plan, then keep the dialogue open as the pregnancy goes on and make changes as things change. This may result in alteration of their duties

to lighter ones, they could negotiate different shifts and towards the end, change to duties with more sitting.'

— 250+ employees, private sector, Trade

In most cases, employers found it easy to manage the impacts of the changes required to deal with identified risks to pregnant employees or new mothers. This was usually because relatively minor adjustments to their duties or working environment were required. Nevertheless, some employers noted it could be more challenging where risks resulted in changes to working patterns or workloads, especially where these changes had an impact on other employees.

'The biggest thing is if we need to reduce hours to give them more breaks, to backfill those hours. Towards the end we have to give them a lighter timetable and that's more difficult to manage.'

— 50-249 employees, public sector, Education

'It is quite easy to accommodate the shift changes unless it affects others on their standard shift patterns and then we try and get agreements to swap shifts and so on. Where it affects another employee it becomes more difficult.'

— 250+ employees, private sector, Manufacturing

The ease with which redistribution of workloads and changes to working patterns could be managed was often dependent on the size of the employer and the type of work undertaken. For example, in the follow-up interviews an employer for a small nursery (where the main risk was described as young children kicking or knocking the pregnant employee) indicated it was difficult to redistribute work or change working patterns due to a lack of alternative, non-child facing roles. In the Health and Social Work and the Hotels and Restaurants sector there is often a large workforce across the organisation as a whole, and suitable alternative roles, which provide the flexibility required to accommodate these changes. Nevertheless, in some cases employers felt that adapting or changing the role of employees could be a challenge if the employee did not have a transferable set of skills.

Employers occasionally reported instances where mothers were disappointed to have duties removed as a result of a risk assessment, because they felt they could still perform their duties well. Similarly, some reported their employees had shown resistance to being transferred to another project or team as a result of risks being identified.

'[On adjustments made] It depends on the role. Some are outdoors and physically demanding so when she [pregnant employee] started to get bigger we stopped the outdoor activity and put her at a desk, which she hated. She was annoyed we changed it. We asked her to think about the stuff she was doing and make a judgment call but we were clear that there should be no risk-taking.'

- 10-24 employees, third sector, Real Estate and Business

There were also instances where employers said they conducted specific risk assessments after an employee had told them she was pregnant and identified risks, but were not always able to make suitable adjustments to mitigate these risks.

'They have risk assessments, it is done when an individual declares that she is pregnant, [however] there can be occasions when it can be more difficult to accommodate adjustments like not lifting or doing night working, etc., where it would affect others on their standard shift patterns.'

- 250+ employees, private sector, Manufacturing

5. Communication while on maternity leave

This chapter covers employers' formal and informal contact with mothers on maternity leave, covering first awareness and use of KIT days and other forms of contact. The final section of the chapter explores employers' experience of communicating with mothers during maternity leave.

While employees are on maternity leave, employers are legally required to keep them informed of issues which may affect them, such as promotion opportunities or job vacancies.

The amount and type of contact between an employee and employer must be 'reasonable'.

Women are also allowed to work for up to 10 days during maternity leave without it affecting their maternity pay. These are called KIT days which are intended as an opportunity to work and are not designed to replace other forms of communication with employees on maternity leave. KIT days are a matter of agreement between employer and employee. Under the current legal framework, employees can neither be forced to work them, nor can they insist on taking them as they are not a right.

5.1 Summary

Most workplaces (77%) with recent experience of managing a pregnant employee over the last three years said they had formal or informal contact with employees on maternity leave.

Contact tends to be made regularly (40%) or occasionally (33%) throughout the maternity leave, though some left it close to the point when the woman was due to return (10%). The frequency of contact that employers had with employees on maternity leave varied greatly. Although few said this was at least once a week (8%), a third indicated it was more than once a month. At the other end of the spectrum one in six said this contact was very occasional or only when absolutely necessary (16%), and a few said it was just to discuss their return to work (3%). Contact was more frequent among small employers (14%) contacting mothers several times a month or more, compared with 5% of medium and 5% of large employers.

There was a variety of reasons for contact: for around half (48%) it was to keep the employee 'in the loop' generally and one in four said that it helped to keep those on maternity leave up to date with developments in the workplace.

Just over half (57%) of all employers were aware of KIT days, and a quarter (26%) had made use of them. 77% of employers who had a pregnant employee in the workplace in the last three years were aware of KIT days and 57% had made use of them.

Employer opinions varied on whether contacting employees on maternity leave could

be interpreted as putting them under pressure to return to work sooner. Three in 10 employers (29%) felt this could be the case, while two in five did not (42%).

In follow-up interviews employers said communication with mothers on maternity leave worked best when the frequency and nature of communication is agreed between employers and mothers beforehand. This created a shared understanding around the reasons for contact and helped to limit the employer and the mother 'second guessing' each other regarding, for example, the mother's intentions to return from maternity leave and how mothers wanted to be updated about work.

5.2 Contact during maternity leave

Three in four employers (77%) with a pregnant employee in the last three years said they had contact with women on maternity leave (formally or informally) aside from KIT days.

This was most common for:

- Large employers and medium-sized employers (92% and 84% respectively, compared with 75% of small employers);
- Public and third sector employers (88% and 86% respectively, compared with 74% among private sector employers); and
- Employers operating in the Public Administration (89%) and Health and Social Work sectors (84%).

Employers with the lowest level of contact with women on maternity leave were in the Manufacturing (67%) and Hotels and Restaurants sectors (70%).

Most employers who had contact with women on maternity leave outside of KIT days described their contact as taking place either regularly (40%) or occasionally (33%) throughout this period. One in 10 waited until close to the point of a woman returning from maternity leave, despite their return being a key issue for many employers. Figure 5.1 summarises the frequency and nature of employer contact with those on maternity leave.

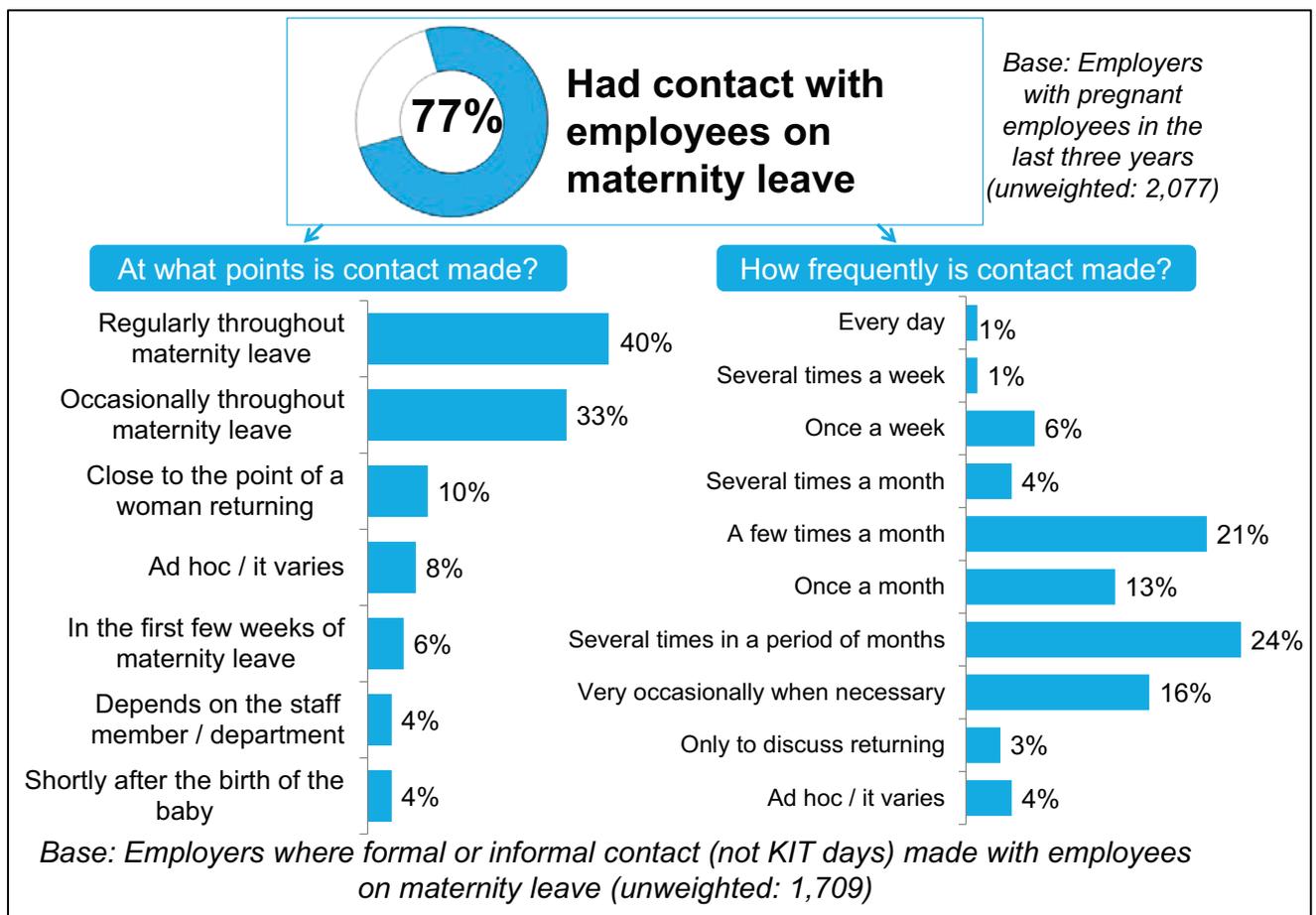
Small public sector employers were more likely than small private sector employers to have communicated with staff on maternity leave aside from KIT days (85% and 72% respectively), as were medium-sized public sector employers (93% compared with 81% of medium-sized private sector employers).

The frequency of contact varied quite widely. It was most common for employers to report contact either a few times a month (21%), once a month (13%), or several times over a period of months (24%). Relatively few employers had contact once a week or more often (8%). In contrast, one in six (16%) described the frequency of contact as very occasional or only when absolutely necessary.

Communication was more frequent in the Hotels and Restaurant and Construction sectors: more than a third of employers in these two sectors (35% in each case)

contacted mothers several times a month or more. Indeed, more than one in four Hotel and Restaurant employers reported contacting mothers on maternity leave at least weekly (28%). Contact was also more frequent among small employers with 14% contacting mothers several times a month or more, compared with 5% of medium-sized and large employers. Therefore, in the case of small employers and employers in the Hotel and Restaurant sector, although they were less likely to contact mothers during maternity leave, where they did, contact was more frequent.

Figure 5.1: Employers’ perspective: contact with women on maternity leave outside of KIT days



Aside from KIT days, around one in eight employers (13%) said they did not have either formal or informal contact with women on maternity leave. Employers with a minority (49% or less) of female employees (18%) and those in the Manufacturing sector (22%) were least likely to have contact.

One in 10 employers did not know whether they had contact with employees on maternity leave.

Almost half of employers (48%) who made contact with women on maternity leave

reported that this was to keep them 'in the loop' generally, and a further quarter said that it helped to keep those on maternity leave up-to-date with developments in the workplace. Just over a third (36%) made contact to check on the welfare of the mother and the baby. Other reasons for contact included: discussing plans for return to work (23%), social reasons (16%) and helping those on maternity leave to maintain their skills (3%).

Larger employers were most likely to contact women on maternity leave to keep them 'in the loop' (61%) or up-to-date (46%). Small employers were the most likely to check on the welfare of the mother and baby (38%) or for social reasons (19%).

The following case study provides an example of an employer who had procedures for limited formal contact but left informal contact (which it recognised as important) to managers, but provided little oversight of this.

Case study: Example of an employer who has limited formal contact during maternity leave and managers are responsible for informal contact, 250+ employees, private sector, Transport and Communications

Paul is the HR Manager for a large business involved in shipping. He has managed over 20 pregnant women in the last three years and says he finds it generally straightforward to follow company procedures which meet statutory requirements.

Paul thinks clear communication is important to ensure everything runs smoothly; that key dates are identified and employees know their rights. *Paul* says HR manages the process, and line managers are 'relieved' to hand over responsibility as he thinks they are generally 'ignorant' of the legal requirements.

Paul says the HR department sends out a standard letter with congratulations following the birth; this includes details of legal entitlements and KIT days, should the mother wish to take these up.

Otherwise, contact is left to individual managers and *Paul* thinks it depends on their relationship.

'I think it varies, I think on the manager, if it was a likeable lady ... if they've got a friendly relationship, they'd probably ring her every week. Others might not be so good at that but I think from the lady's point of view, they'd probably appreciate that more than the formal HR letters.'

He recognises that many mothers would like more contact than the HR letters, and he hopes they are in touch monthly, he does not tell managers how often to contact mothers, so managers are not aware of any company expectations.

'I wouldn't want to have a form that says to the manager, you must ring this person [on] these dates. It's too much.'

Paul sees contact as helping the business with forward planning. He thinks it is

important to keep employees up-to-date. He encourages managers to use KIT days, which the company already offered informally before the legislation was introduced. He sees their value in maintaining team relationships, but finds he has to remind managers to organise them so KIT days may not be offered in the same way to all staff.

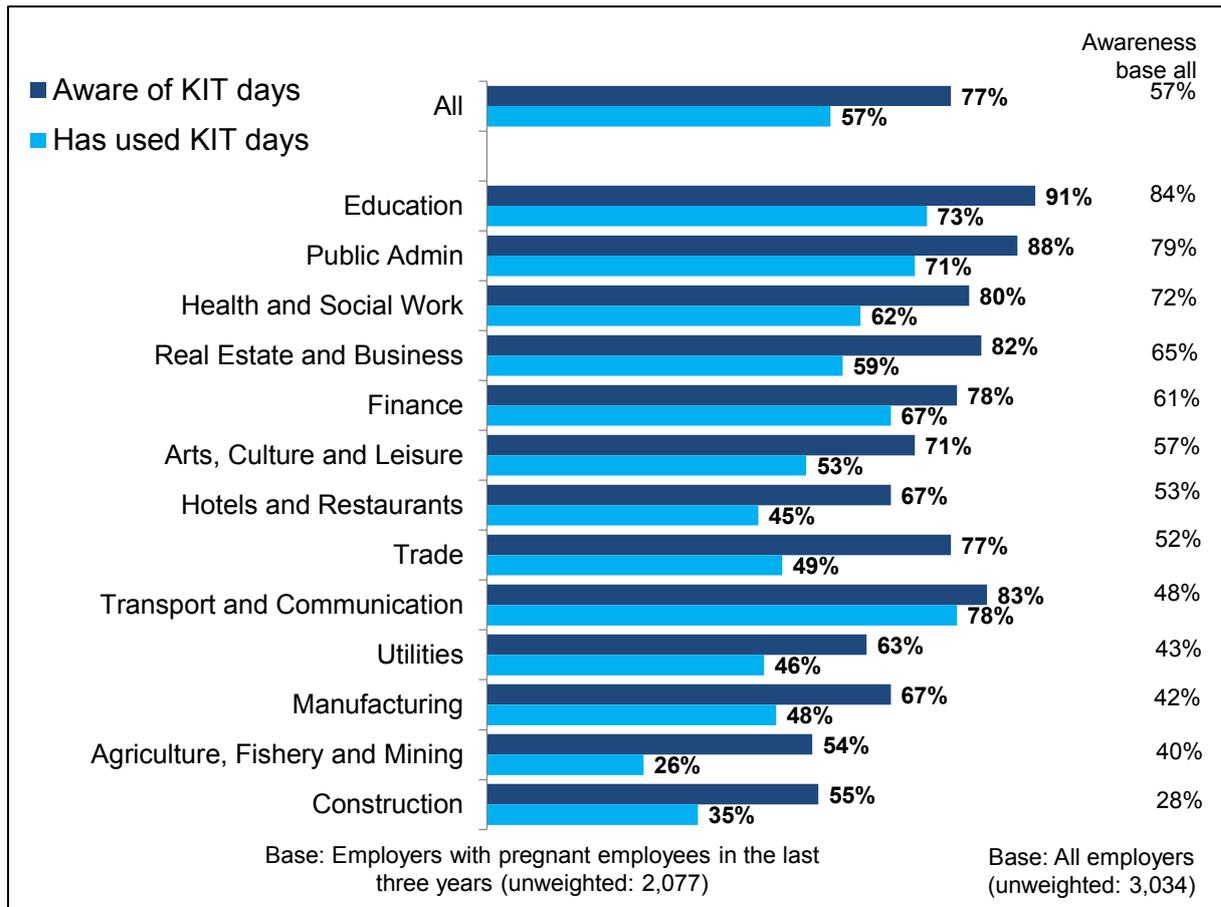
5.3 Employers' awareness and use of KIT days

Just over half (57%) of all employers were aware of KIT days, and a quarter (26%) had used them. Awareness of KIT days increased with workplace size, with the largest employers most likely to be aware (97%, compared with 86% of medium-sized and 53% of small employers). Small private sector employers were least likely to be aware (49%). Employers who had a pregnancy in the last three years also had much higher awareness (77% compared with 39% of those who had not).

Large employers with recent pregnancies were more likely to have used KIT days (91%) than medium-sized (74%) and small (51%) employers. Across all employer sizes, those in the public sector (78%) were also more likely to use KIT days than those in the private sector (51%). Use of KIT days among those with recent pregnancies was most common in Education (73%), Public Administration (71%) and the Finance sectors (67%).

Figure 5.2 summarises the variation in awareness and use of KIT days by sector. The bars show awareness and use of KIT days based on employers with a pregnant employee in the last three years. The right-hand column of figures shows awareness among all employers.

Figure 5.2: Employers' awareness and use of KIT days, by sector



The follow-up interviews showed that employers who used KIT days were generally positive about them. Some mentioned they were reluctant to contact mothers towards the end of their maternity leave in case mothers felt pressured to return. Some employers felt KIT days were a good way of allaying this suspicion. Some felt they were effective for notifying mothers of any changes, giving them the opportunity to raise any issues, and to discuss their return from maternity leave and working arrangements.

'KIT days are a reassurance that they are coming back and still able to do the job.'

— 50-99 employees, private sector, Trade

'We wrote it all in a letter so we knew where we were, how many [KIT] days she would be in during her time off. I don't expect there will be much in the way of work when she comes in next, but we have made some changes within the business even in the last couple of months so there will be quite a lot of catching up and I expect quite a lot of lunch. It's about her not being completely out of touch. It's difficult, I think you can feel isolated if you're at home by yourself and it's nice to know you're treated as a human being.'

— 10-24 employees, private sector, Real Estate and Business

The formality of KIT days varied. In some cases, formal planning occurred for mothers to come into the workplace and undertake work-related activities or discrete tasks such as training, project work, or to attend department meetings. Sometimes KIT days were used to stagger a mother's return to work, in most cases at the mother's suggestion, and as a way of 'easing back' into the workplace. In other cases, they were purely social, to catch up with the team or to introduce their baby.

Employers said that it was generally the mother's decision whether she used KIT days and this was supported by the findings from the mothers' survey. They were seen by some employers as being more of a benefit to mothers and were not usually part of a formalised communications plan but more often left to individual managers and employees to arrange.

Some employers reported uncertainty about how to use KIT days. Several employers mentioned that employees on maternity leave visited the office informally when they wanted to rather than a more formalised arrangement. As a result, KIT days were not always actively promoted within workplaces.

'They can come in any time they like. They don't need an appointment – they can just turn up. We get all ex-employees turning up and coming in for a chat. That's again what you get with a small business – you can do that. You get people turning up all the time to pop in and say "how are you all?"'

— 25-49 employees, private sector, Transport and Communication

Where they were not promoted, this was usually due to the employer's lack of awareness of KIT days or how to use them effectively. A small number of employers said they had chosen not to use KIT days because they did not think they brought value or were suitable to the business, and distracted staff from their work. This is demonstrated in Richard's case study.

In addition, some employers did not see KIT days as practical or appropriate for some roles as they were too difficult to manage or arrange discrete tasks that could be limited to one day's work.

'[KIT days would be] very difficult to do in a pub. It would be too complicated. If she wants to come in, she can.'

— 5-9 employees, private sector, Hotels and restaurants

Case study: Example of employer who had no contact with those on maternity leave, 50-99 employees, private sector, Real estate and Business

Richard is General Manager for a marketing agency that has had several pregnant employees in the last three years. All mothers took a full year off, and only one has returned. While they were on maternity leave the agency did not contact the

mothers at all as they were concerned this could be interpreted as pressure to return or to make a decision about returning.

'No, we don't keep in contact. It's us being so risk-averse and worry that staff would say we were pressuring them. So we leave it to them to contact us if they want to.'

Richard says the company ensures that the employee knows she needs to inform the company if she is going to return by a particular date, as some may be unsure of their decision.

Richard did not think that KIT days were useful for his business and could lower the productivity of other staff, therefore the company does not encourage them.

'We haven't pushed these [KIT days] In principle it's a good idea. Not sure it really works for our company – she can't do anything useful when she comes in and actually takes others away from their job. Ends up being a bit of a chore, people spending time telling her what they are doing, when they may or may not be coming back, or else people are stopping what they are doing looking at baby photos.'

Some employers indicated that take up of KIT days was more common among staff in certain roles; notably those in more senior positions. However, this was due to these mothers choosing to use KIT days, rather than employers promoting them to these employees. Employers said they generally discussed KIT days with all mothers or not at all.

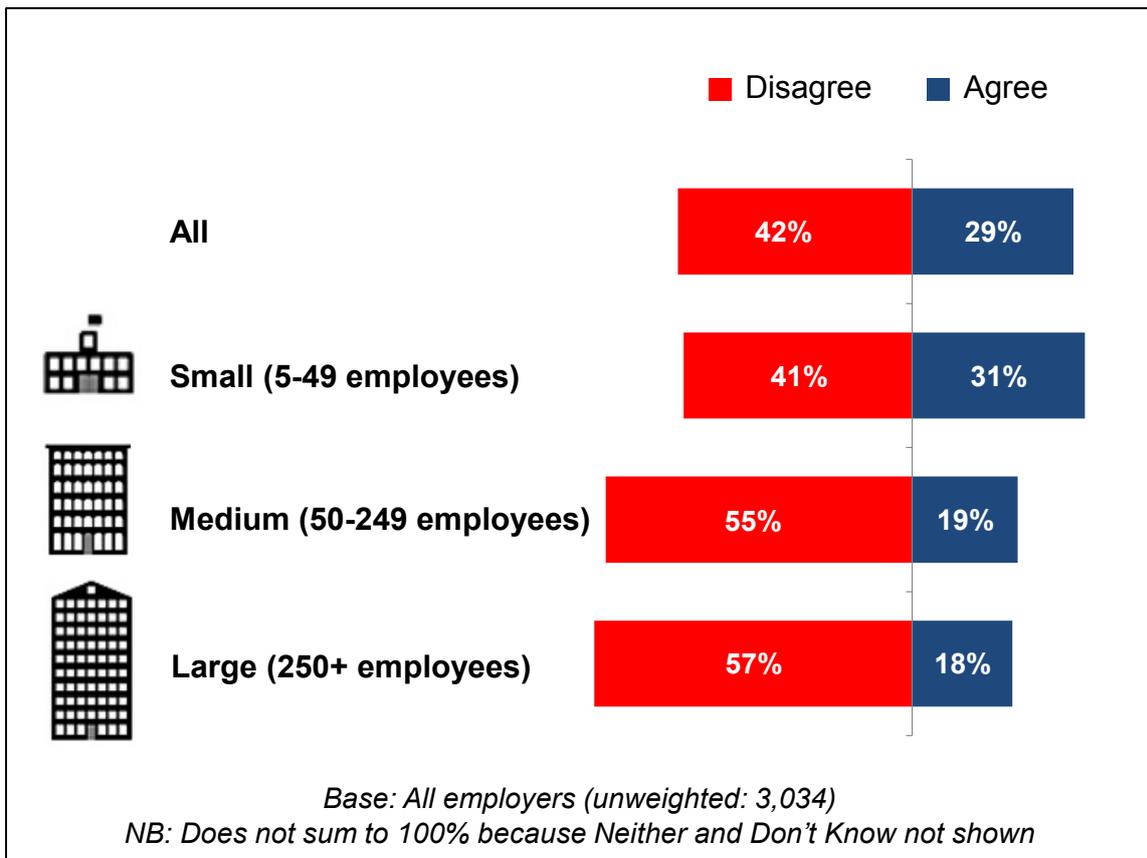
5.4 Contacting mothers on maternity leave and potential pressure to return

Overall, four in five employers (80%) with a pregnancy in the last three years said communication with mothers on maternity leave was easy to manage; 7% reported it was difficult.

However, around three in 10 employers (29%) agreed that contacting women on maternity leave could be interpreted as putting them under pressure to return from maternity leave sooner; around four in 10 (42%) disagreed. The remaining 28% neither agreed nor disagreed or were unsure. Large (18%) and medium-sized (19%) employers were less likely to agree that contact could be interpreted as putting women under pressure to return to work sooner. Figure 5.3 shows how perceptions differed by size of employer.

Employers in the Public Administration and Defence sectors were the most likely to disagree that contacting an employee on maternity leave may be interpreted as putting them under pressure to return from maternity leave sooner (59%).

Figure 5.3: Employers' perspective on whether contacting women on maternity leave could be interpreted as pressure to return to work



In the follow-up interviews it was evident that the nature and frequency of contact was often influenced by the relationship between the employee and line manager and sometimes the immediate team. Although policies often existed, the nature and frequency of contact was often driven by social relationships. Furthermore, the line between 'work' contact and 'social' contact could be blurred. The process of communication appeared to work best when a communications plan was agreed between the employer and the employee prior to her going on maternity leave. Agreeing the frequency and nature of contact beforehand created a shared understanding around the reasons for contact and helped prevent the employer and mother 'second guessing' each other regarding, for example, return to work intentions and the degree to which a mother wanted to be kept updated about work while on maternity leave.

'They're aware before they leave that KIT days exist and what they can do. They're arranged through us just so we can make sure they're going to be safe while they're here, everything is well and their managers are around to give them all the updates. It can be department-specific, it depends who the manager is and how well they know the employee on a personal level really.'

Communication varies quite a lot. Formal communication - we try to make

sure we get in touch with them once a month. We discuss frequency beforehand but we don't put it in a formal agreement. We just say 'we'll contact you and send you out any major changes with the department'. We have a monthly cascade document that says how the company's doing so we'll post bits and bobs out so they've got an idea of what's happening. It's quite an individual thing because you get a feel for how much the employee just wants to be left to look after their baby. Some can get quite suspicious when you're contacting them so you have to handle it individually.'

— 250+ employees, private sector, Construction

Employers mentioned a number of challenges in maintaining contact with mothers during their maternity leave. From a business perspective, while a mother is on maternity leave, the key piece of information that an employer typically wanted to know was if and when the mother would return to work. Some employers felt mothers did not want to commit to making an official decision on returning from maternity leave until they had to. Even when they had informed their employer about their plans for returning, they had a right to change their minds and sometimes did. Awareness of this between both parties could cause a breakdown in communication particularly if there had been no or very little contact with mothers up to this point. Many employers reported trying to strike a balance between ensuring mothers felt valued and part of the team while trying to avoid 'pressuring' them.

6. Requests for flexible working

This chapter explores whether employers made various flexible working practices available and, where they were available, whether they were offered to pregnant women and/or returning mothers. It also covers the number of requests pregnant women and mothers returning from maternity leave made for flexible working in the last three years, whether employers granted these requests and, in cases where they rejected these requests, the reasons why.

The term 'flexible working' describes a type of working arrangement which gives some degree of flexibility on how long, where, when and at what times employees work. The flexibility can be in terms of working time, working location or the pattern of working.

There have been several changes to flexible working legislation in recent years, some of which also have an impact on workplace management of pregnancy and maternity arrangements. These include the introduction of the Work and Families Act 2006, changes to the rules governing carer's requests for flexible working (2007), Additional Paternity Leave Regulations 2010 and the extension of the right to request flexible working to all employees after 26 weeks of service (June 2014). In addition, Shared Parental Leave was introduced in April 2015 allowing fathers to share up to 50 weeks' maternity leave with the child's mother.

The Fourth Work-Life Balance Employer Survey (WLB4) (2013)¹¹ showed that 97% of workplaces with five or more employees offered at least one of the flexible working practices covered in the survey and that two in five employers had received at least one request to work flexibly in the last 12 months, the same proportion as reported in the Third Work-Life Balance Employer Survey (WLB3) (2007). In addition, as in WLB3,¹² most establishments (91%) had accepted all requests with only 9% turning any down.¹³

6.1 Summary

As outlined in chapters 2 and 3, most employers believed that the statutory right to request flexible working was reasonable and easy to implement. A small share of employers (6%) felt that the right was unreasonable and 12% that it was difficult to

¹¹ BIS (2013), 'Fourth Work-Life Balance Employer Survey'. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/398557/bis-14-1027-fourth-work-life-balance-employer-survey-2013.pdf [Accessed: 9 December 2015]

¹² Department for Business Enterprise and Regulatory Reform (2007), 'The Third Work-Life Balance Employer Survey: Main findings'. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/193626/bis-07-1656-the-third-work-life_balance-employer-survey-main-findings.pdf [Accessed: 9 December 2015]

¹³ Note these findings are across all employees and not just limited to pregnant employees or mothers returning to work.

facilitate requests for flexible working (though rising to 25% among those with few (one to three) flexible working practices available). Nearly all employers (96%) offered some type of flexible working to their employees.

Over half of employers (58%) with a pregnancy in the last three years in their workplace had received requests for flexible working from pregnant employees or those on or returning from maternity leave. The majority of these employers said they granted all the requests they had received (84%).

Almost two in five employers (39%) had not had any requests by pregnant women and mothers returning from maternity leave. These employers were more likely to:

- Private (41%) rather than public (30%) sector workplaces;
- Have fewer (one to three) flexible working practices available (58%); and
- Be an employer with a 100% female workforce (57%).

Employers were most likely to offer flexible working practices to pregnant employees and returning mothers relating to the hours they worked. More than half of employers offering annualised hours and staggered hours offered them to all or some pregnant women (64% and 59% respectively) or all (62%) or some (56%) women returning from maternity leave.

Employers were more likely to offer some flexible working options to pregnant women than to mothers returning from maternity leave. The difference was most marked for working from home (39% and 33% respectively), job sharing (38% and 32%) and working a compressed working week (48% and 42%).

Where employers did not actively offer flexible working practices nearly all indicated that they would consider a request.

Around one in seven employers (14%) had turned down at least one request for flexible working from a pregnant woman or mother returning from maternity leave. This was much higher in the Finance sector (43%).

In the follow-up interviews, most employers felt positive about the concept of flexible working and felt they accommodated requests where possible. However, they did not actively promote flexible working and this left employees unaware of what was available or uncertain about the employer's willingness to discuss working flexibly.

6.2 Availability of flexible working practices

The vast majority (96%) of employers offered at least one flexible working practice. Just 4% offered no flexible working practices and these were more likely to be small, private sector organisations (5%). Some of the sectors which traditionally have a lower female workforce, such as Utilities (23%), Construction (13%), and, Agriculture, Fishery and Mining (10%), were most likely to have no flexible working practices available.

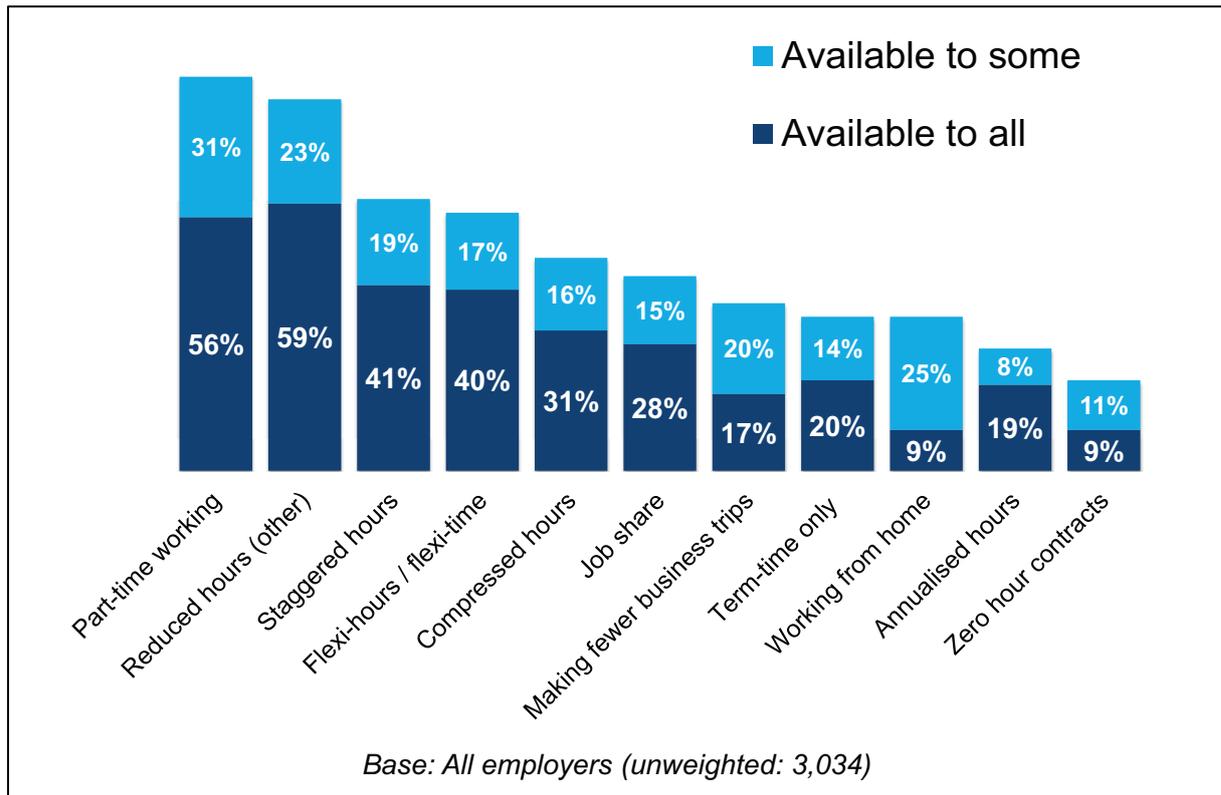
A slight increase in employers offering no flexible working practices (7%) was reported among employers where a minority of staff were female. A higher proportion of establishments in Wales (10%) offered no flexible working practices, compared to England (4%) and Scotland (3%).

Figure 6.1 shows the proportion of employers who made each flexible working practice available to some or all workers. The most widespread practice available was part-time working, followed by reduced working hours, with more than four in five employers making these available (86% and 82% respectively). Around three in five employers offered staggered hours (61%) and flexitime working (57%). All other practices were available from at least a third of employers, apart from annualised hours (27%) and zero-hours contracts (20%). The Fourth Work Life Balance Employer Survey (2013) reported on workplace availability of these practices (apart from staggered hours, making fewer business trips and zero-hour contracts). Although questions on availability were worded differently, patterns across the two surveys were broadly similar.

Where offered, the flexible working practices tended to be available to all employees (rather than just some groups of employees with particular characteristics).¹⁴ The exceptions where particular working practices were not offered to all employees with particular characteristics were making fewer business trips, working from home and zero-hours contracts.

¹⁴ Question text was phrased as follows: 11A-1. [FLEXIBLE WORKING PRACTICE] Is this available to all of your workers, some of your workers, or is it not available at your establishment?

Figure 6.1: Availability of flexible working practices in workplace



Where employers said they had a flexible working option available to at least some staff they were asked: if they explicitly offered it to all or some pregnant women or women returning from maternity leave; considered it only when it was requested; or did not offer it to any pregnant women or women returning from maternity leave. Results are shown in Figure 6.2 with each figure based on employers offering that practice who had employed pregnant women or women returning from maternity leave in the last three years.

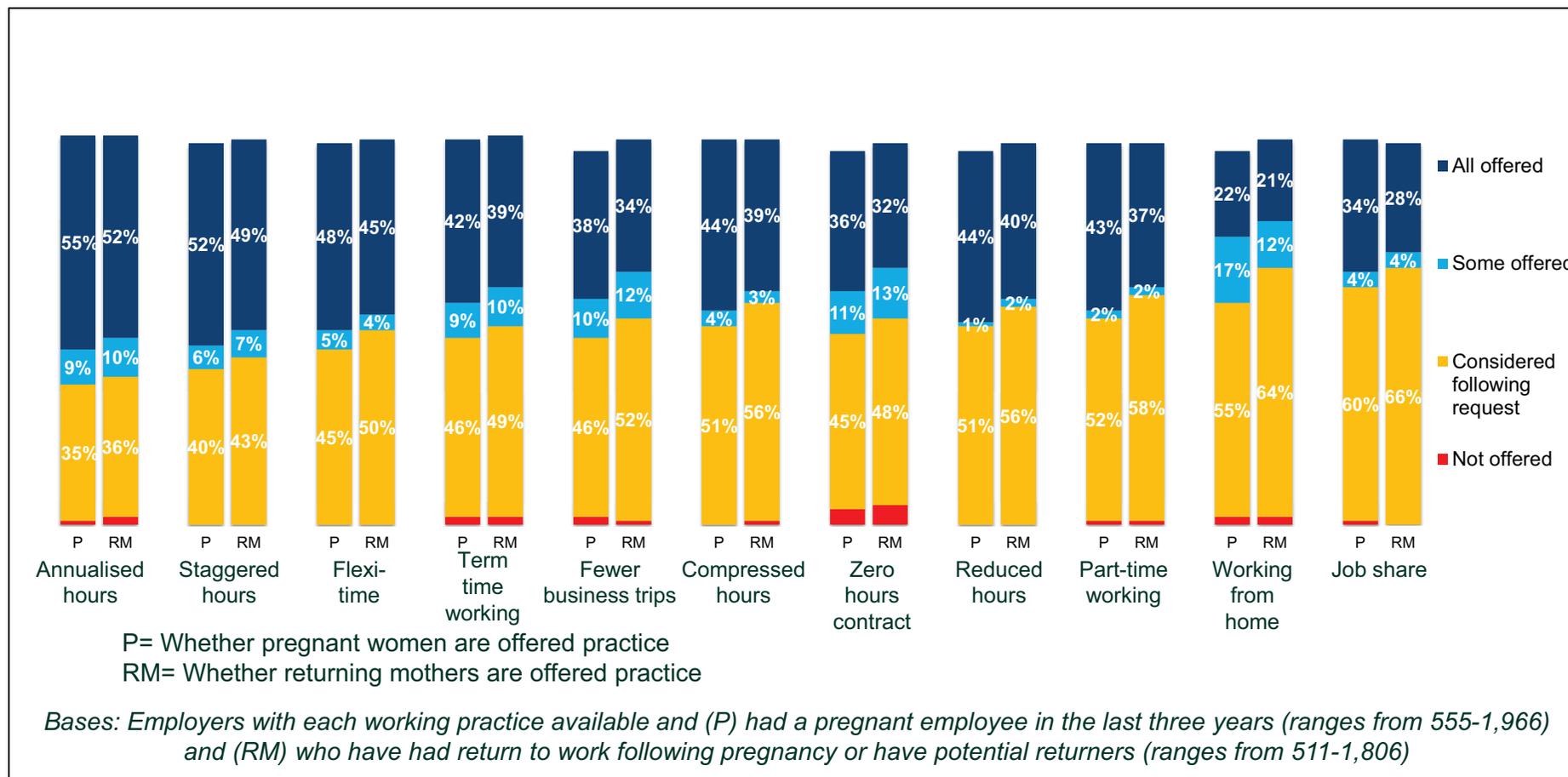
Pregnant women or those returning from maternity leave were most likely to be offered flexible working practices relating to the hours that they worked. More than half of employers who offered annualised hours and staggered hours offered them to all or some pregnant women (64% and 59% respectively) or women returning from maternity leave (62% and 56%).

Employers were less likely to offer job sharing and working from home. Just under two in five employers with working from home or job sharing available offered these to all or some pregnant women (39% and 38% respectively). This fell to around a third for women returning from maternity leave (33% and 32% respectively).

Some flexible working options were more likely to be offered to pregnant women than to mothers returning from maternity leave. The difference was most marked for working from home (39% and 33% respectively), job sharing (38% and 32%) and working a compressed working week (48% and 42%).

Where employers did not actively offer flexible working practices, nearly all indicated they would consider a request.

Figure 6.2: Flexible working practices provided by the employer for pregnant women and women returning from maternity leave



The follow-up interviews found some employers were enthusiastic about offering flexible working to all employees. The following case study provides some examples of employer perceptions about the benefits of flexible working.

Case study: Example of employer who is favourable towards flexible working, 10-24 employees, public sector, Public Administration

Joseph is Corporate Services Manager for a small public sector organisation. They have had two pregnant employees in the last three years and say they pride themselves on offering more than is required by legislation in terms of flexible working, despite funding cuts. They see this as a benefit they can offer employees to offset lower pay. They have made flexible working available to all employees to request for some time, and feel it is an established way of working.

'We've been ahead of the game for some time and I know the recent legislation gives employees the statutory right to ask for flexible working but we've had that for donkey's years. We can't compete with private sector pay but we can offer extra things and we have a full flexitime system, compressed hours, etc.'

'The key here is to get the job done and if you have to work extra hours to do that then you can make it back.'

They see flexible working as integral to their ethos, offering employees good terms and conditions and treating them well. *Joseph* believes if employees are happy they will work harder for the organisation and are less likely to leave.

'I take the enlightened view that if you have a happy workforce you have a productive workforce . . . plus you have the staff retention benefits . . . I think it's [current legislation] working well for both employer and employee.'

6.3 Requests for flexible working from pregnant employees or those returning from maternity leave

Almost three in five employers (58%) who had managed a pregnant worker in the last three years had received requests for flexible working from pregnant women or those on or returning from maternity leave. Most commonly they had received just one or two requests (43%). 14% had received three to 10 requests and 2% had received 11 or more.

Most employers said they had granted all of the requests they had received in the last three years (84%).

The mothers' survey confirms the high levels of interest in flexible working (68% of respondents in the mothers' survey had made a request for flexible working) and the high levels of employers accepting these requests (for most types of flexible working, three in four mothers said their employer had approved their requests straightaway). Nevertheless, the mothers' survey reported 38% of all mothers did not request a type of flexible working they would have liked. This was often because they did not think it

would be approved or because they were worried their request would be viewed negatively by their employer.

In total, around one in seven employers (14%) had turned down at least one request for flexible working from a pregnant woman or mother returning from maternity leave. The Finance sector was most likely to have turned down at least one request (43%). The main reason for refusing requests was that it did not fit with operational requirements (46%), while a quarter reported it was not possible to reorganise work among other staff. Other common reasons for declining a flexible working request included:

- The business would not be able to meet customer demand (20%);
- Flexible working would affect quality and performance (16%); and
- People could not be recruited to cover the work (15%).

The following case study illustrates that some employers found it difficult to see how some roles could be organised to allow for flexible working.

Case study: Example of employer who did not grant flexible working request, 10-24 employees, third sector, Real Estate and Business

Sandy is a Senior Administrator for a small office branch of a national charity. They have had two pregnant employees in the last three years. With a small workforce *Sandy* said they struggled to cover the positions during maternity leave using a combination of temporary cover, volunteers, and sharing the work among the team.

'You have to put quite a lot of effort in especially for a smaller organisation without the slack. You have to work out how to manage it and also to understand if the person is coming back, so maybe you can postpone the role for a year.'

'Uncertainty about the return . . . is a big deal because you only find out quite late on in the process, and maybe they will request part-time, and can the role be done part-time? . . . When they come back it's the best bit, you think, thank god you're back!'

Sandy said the organisation considers all requests to work flexibly and feel they need to provide 'very good reasons' if the request is not granted. For example, one employee's request to work part time was turned down as the organisation felt it was not possible to divide the role of building donor relationships between two people; the employee subsequently left.

'She only wanted to come back a couple of days a week but you can't get somebody else to dovetail onto that relationship. The dotted line to head office is strong on that role and they couldn't see how you could share it.'

Sandy also thinks a request to work part-time (which was accepted before she started) should also have been turned down.

'She asked to go part-time and told us we had a legal responsibility to address the request. The person in charge, she manipulated her manager who didn't have enough experience and should have declined the request because it is a full-time role.'

6.4 Negotiating flexible working

In the follow-up interviews, most employers were positive about flexible working. However, few actively promoted or encouraged flexible working. The follow-up interviews provide evidence that employers expected to be asked about flexible working when mothers return from maternity leave. Most tried to accommodate requests if they could and considered requests as they arose.

'We look at the request, go through the flexible working process for that request and see if we can accommodate it or if there are any grounds where unfortunately we're not able to, we go through a working meeting. It's all about availability and resource and how we can help manage that, what we can adjust to accommodate it or if it's just not feasible what they have actually requested.'

— 250+ employees, private sector, Manufacturing

'The philosophy is "if we can, we will". We have always been flexible and haven't had to change anything much. We want to support staff and their families – it is the ethos of the company and we just continue with existing policy.'

— 250+ employees, private sector, Transport and Communications

I'm a massive fan of getting women back to work; lots of them have to work around school hours, babysitter times, their own financial limitations in coping with it all. A lot of women are skilled and able to provide skilled labour so we'd rather have them in during the hours that they can work than not at all. It's up to management discretion.

— 25-49 employees, private sector, Transport and Communications

While employers generally said they supported flexible working, they often did not actively promote or encourage it. Therefore, it may not always be clear to employees exactly what arrangements are available or that their employer is willing to engage in a discussion about flexible working.

'We actively support it. Do we actively publicise it? Probably not. Flexible working is much more common than four [or] five years ago. Back then of nine out of 10 cases we'd have said no, we didn't have to. We saw ourselves as a five days a week, 9-6 organisation. Now it works both ways - we have to be flexible anyway but the more we think about it the more we realise it'

works both ways.'

— 50-99 employees, private sector, Finance

Despite employers' support for the concept of flexible working, negotiating a change in work arrangements could sometimes be challenging. Employers said they tried to be flexible, but felt the negotiation process could be difficult either where requests were very specific (for example, mothers requesting to work specific hours or days) or if employers believed the change would negatively impact the mother's effectiveness in her role. In addition, several employers mentioned that approving flexible working requests could be influenced by the mother's role or the department she worked in; flexible working was considered easier to accommodate in some areas of the business than others.

Employers felt the current level of requests (from employees in general, not exclusively mothers) were manageable. However, some employers were concerned about setting a precedent in case the number of requests significantly increased. Some said they would only be able to accommodate a certain amount of flexible working and had considered the possibility of setting 'quotas' or putting a 'cap' on certain arrangements within certain areas of the business. This could have an impact on mothers returning from maternity leave who request flexible working.

'We have a lot of requests for part-time working and that is becoming in some areas quite an issue . . . and . . . has caused some flutters from managers . . . They say "What... can I do because I have had a good five day worker who now wants to do three days a week?" I think there is a concern that if you have already got a couple of people in your area or department and then you get another person coming with another reason (which may be a caring need), then that would become very tricky for the management team to handle. [Others] may have already taken up the quota almost in the department. I don't know, I'm sure that hasn't happened yet but there is a danger that if we did accept non-maternity linked flexible working requests then it could have a knock-on effect and managers saying "I can't handle any more in my department".'

— 250+ employees, private sector, Manufacturing

6.5 The impact of flexible working

Most employers believed that flexible working did not harm a mother's career prospects or indicate a change in attitude or a mother having less ambition.

'We have always been flexible and haven't had to change anything much. We want to support staff and their families – it is the ethos of the company and we just continue with existing policy. Personally speaking, as a woman who wants to have children at some time, I want a company that can actively support me when I decide to. I want to know that I can work three long days and still progress my career as well as seeing my family.'

— 250+ employees, private sector, Trade

However, the survey of mothers found half of mothers who had a request for flexible working approved said they experienced negative consequences as a result (51%).

The mothers' survey found that fairly frequently, employers were initially reluctant to agree to flexible working requests. Depending on the type of flexible working requested, according to mothers their employers only approved between 24% and 39% of requests following discussion.

The mothers' follow-up interviews found that mothers frequently felt that employers or managers made it clear (both directly and indirectly) that flexible working was inconvenient. In addition, mothers reported being made to feel guilty or that they were letting the team down, often due to under-resourced teams. Some mothers felt employers perceived flexible working to be an indication that they lacked a desire to progress their careers. Some mothers felt it was used as a reason for an effective demotion or that their employer treated them as more junior than previously.

A small number of employers acknowledged in the follow-up interviews that in some cases, flexible working could limit employees' promotion prospects. For example, some employers believed senior positions could only be full-time roles or, as the examples indicate, undertaken by employees who are able to work over and above their contracted hours when required.

'Priorities can change after having a baby. Commitment can change simply because of the hours. It probably would [affect the chances of a promotion], mainly because we are not a 9-5 business. But it would depend on the person and can they manage their different responsibilities well. If they become very strict on their hours it would make it hard to move up.'

— 50-249 employees, private sector, Real Estate and Business

Some employers indicated they were able to offer flexible working to mothers returning from maternity leave but not for the mother's previous job role or at the level they were previously; they only offered flexible working at lower levels.

'It would have been difficult to have her [senior sales staff] work anything other than full time eventually. If she could not have fulfilled that, then we would have had to offer her another job not necessarily at the same site or doing the same role.'

— 50-99 employees, private sector, Construction

'We require you in that job [engineering] to do three consecutive days, then these are our options and try and come to some sort of agreement. We did have a lady engineer who did have a baby and she was due to come back and she didn't want to do full time and she didn't want to do three consecutive days, so we did try to find her an office role but even though we did find her an office role she did turn it down eventually and decided it wasn't for her.'

— 250+ employees, private sector, Utilities

7. Breastfeeding

This chapter covers employer awareness of their responsibilities in relation to breastfeeding mothers and the extent to which employers provided facilities for breastfeeding and/or expressing milk.

There is no explicit statutory protection for a woman's right to breastfeeding breaks under UK law, although less favourable treatment of women who breastfeed may amount to sex discrimination. Breastfeeding mothers have the same legal rights in the workplace as pregnant women, i.e. the opportunity and place to rest. The Workplace (Health, Safety and Welfare) Regulations 1992 state that these facilities should be conveniently situated in relation to sanitary facilities and, where necessary, include the facility to lie down. These 'rest facilities' are very likely to also be a suitable place for breastfeeding or expressing milk. Although private, a toilet is never a suitable place in which to breastfeed a baby or express milk.

Although not enshrined in law, the Health and Safety Executive and the European Commission recommend that employers should provide: access to a private room where women can breastfeed or express breast milk; use of secure, clean refrigerators for storing expressed breast milk while at work; and facilities for washing, sterilising and storing receptacles.

Whereas employers are legally obliged to regularly review general workplace risks, there is no legal requirement to conduct a specific, separate risk assessment for an employee returning from maternity leave who has informed her employer she is breastfeeding.

7.1 Summary

Almost half of employers (47%) said they were clear about what they needed to or would need to do to accommodate requests to express milk or breastfeed; almost one in four (24%) were unclear.

Just over half of employers (53%) provided facilities for mothers to express milk; just over two in five did not (42%). Relatively few employers had any requests related to breastfeeding or expressing milk in the past three years (8%).

7.2 Awareness of breastfeeding responsibilities and facilities provided

Almost half of employers (47%) said they were clear about what they needed to or would need to do to accommodate requests to express milk or breastfeed in the workplace. This was higher among:

- large employers (66% compared with 53% medium and 46% small employers). Indeed, large, public sector organisations were most likely to report being clear (80%);
- employers with a majority female workforce (53% compared to 41% who had less than half and 33% who had no female employees); and
- employers who had a pregnant employee at their workplace in the last three years (52% compared to 43% of those who had not).

Almost one in four employers (24%) were unclear about their responsibilities in this area. A further one in five employers (19%) neither agreed nor disagreed that they were clear on their responsibilities.

Almost half of employers who provided guidance, training or other support for managers on pregnancy and maternity-related issues covered breastfeeding and expressing milk at work (46%; equivalent to 19% of all employers). This was higher among workplaces part of a larger organisation (52%) and in the public sector (64%).

Overall, just over half of employers (53%) had some form of facility or opportunity for mothers to express milk or breastfeed. Just over two in five employers (43%) had a private room with suitable facilities. Employers also mentioned having a toilet or sick room available (8%) (which Health and Safety Executive guidance considers unsuitable) and storage facilities for breast milk (8%). 2% mentioned flexible breaks were available to allow mothers to breastfeed or express milk.

Overall, just over two in five employers (42%) said that there were no facilities or opportunities available for mothers to express milk or breastfeed at work. Small employers (43%) and those in the private sector (45%) were more likely not to have any facilities or opportunities available.

The survey of mothers reveals mothers' concerns around the practicalities of expressing milk or breastfeeding at work. 6% of all mothers would have liked to have breastfed for longer but stopped, at least in part, because of work. Among mothers saying a return to work influenced their decision to stop breastfeeding, three in four (74%) cited the practicalities of expressing milk or breastfeeding, or lack of facilities at work as being the reason.

Nine in 10 employers had not had any requests from mothers to express milk or breastfeed at work (91%), 7% had one to two requests and 2% were unsure. Less than 1% of employers sought information or advice on breastfeeding guidelines in the last three years.

Of the 7% of employers who received a request, 99% of employers agreed to all requests from mothers to express milk or breastfeed at work; 1% stated they did not approve any.

The following case study gives an example of where the employer did not provide facilities for breastfeeding or expressing milk until suggested by an employee.

Case study: Example of an employer whose lack of facilities for expressing milk was raised by mother, 50-99 employees, private sector, Trade

Simone recently started working in HR for a medium-sized company that previously had no formal HR function. The organisation has many young staff and they have had eight pregnant employees in the last three years and she expects more soon. While employees are pregnant, *Simone* says the company sees itself as responsible for their wellbeing at work, for example making sure they are seated comfortably or changing hours to avoid rush hour. *Simone* says they are keen to retain staff and have granted all the flexible working requests made in the last two years, and view mothers as long-term, valued employees.

They say that lower skilled, lower earners tend to take a year for maternity leave while their employees who directly earn income for the business (who are higher skilled and more highly paid) often return around eight or nine months after having the baby when they may still be breastfeeding. *Simone* had not considered making a space available for mothers who might want to express milk after returning to work from maternity leave until an employee suggested it.

Now it has been raised, *Simone* says the partners are going to consider what they could offer, although there appears to be no urgency so *Simone* thinks it may be too late for the mother who mentioned it.

One large employer in the follow-up interviews said that they had incorporated a question about breastfeeding or requests to express milk in their return from maternity leave risk assessment interview. This employer reported regularly having pregnant employees, reporting 36 pregnancies among staff in the last three years.

'If that person was returning [from maternity leave] obviously was still breast feeding, we'd risk assess that. Yes because we have that in [branch X] where she wants to have a private area to express at certain points of the day which we accommodated. She wanted a separate fridge but we couldn't accommodate that.'

— 250+ employees, private sector, Health and Social work

8. Prevalence and management of complaints

This chapter covers the extent to which employers received formal complaints relating to management of pregnancy or maternity, or had informal discussions with women about perceived unfair treatment in this area. It explores the outcome of formal complaints and investigates why employers think women may not raise concerns.

The chapter explores the extent to which informal discussions take place between line managers and HR about managing pregnancy and maternity, and the purpose of these discussions.

Informal discussions are where employees are encouraged to discuss any concerns or grievances with their employer informally in the first instance, for example by explaining their concern to their manager to see if the problem can be resolved informally.

Formal complaints are where employees are entitled to make a formal grievance complaint if they are not satisfied that any informal discussions have resolved the issue. Employers are required to outline their grievance procedure; for example in a:

- company handbook
- human resources (HR) or personnel manual
- HR intranet site
- employment contract.

The formal grievance procedure should include the following steps:

- the employee writing a letter to their employer setting out the details of their grievance;
- a meeting between the employee and the employer to discuss the issue; and
- the ability for the employee to appeal their employer's decision.

Finally, the chapter covers employers' awareness of the new employment tribunal fees and their views on the impact on their organisation or their employees.

Since 29 July 2013 employees must pay a fee when submitting a claim to the Employment Tribunal or Employment Appeal Tribunal (EAT), unless the employee is eligible for fee remission. Employees have to pay a fee of either £160 for basic claims or £250 for most other claims, such as unfair dismissal or discrimination. They also have to pay a further fee of either £230 or £950 (depending on the type of claim)

to progress to a hearing.

Employers also have to pay certain fees such as £160 to issue a counter claim, £400 to lodge an appeal with the EAT, plus a further fee of £1,200 to proceed to an EAT hearing.

It is good practice for employers to encourage early communication and try to resolve problems and concerns without going through a grievance procedure, if the employee agrees. If the employee does not agree, then employers should investigate the grievance using the relevant ACAS guide.¹⁵ A written procedure can help clarify the process and help to ensure that employees are aware of their rights. For tribunal claims lodged on or after 6 May 2014, those intending to lodge an employment tribunal claim must notify ACAS, who will offer the opportunity to use Early Conciliation to settle the workplace dispute without going to court.

8.1 Summary

Overall, 5% of employers with experience in the last three years of a pregnant employee at their workplace or a mother returning following maternity leave had received either a formal complaint relating to pregnancy or maternity discrimination and/or had informal discussions with women about perceived unfair treatment in this area. Informal discussions were more common than formal complaints (4% and 1% respectively).

Where employers had received a formal complaint the most common single outcome was that the complaint was withdrawn (28%). Where a complaint was decided internally it was slightly more common for it be upheld (15%) than for it to be dismissed (9%). Around three in 10 (28%) said the complaint had been resolved.

The follow-up interviews showed that most employers had formal complaints procedures in place and felt their working environment facilitated honest communication between employee and employer. In the follow-up research some employers said that some mothers might not make complaints about perceived poor treatment because they did not want to be seen as trouble-makers or feared the negative repercussions of making a complaint.

The survey of mothers found that over one in four (28%) of those who said they experienced any type of negative or possibly discriminatory experience raised this. Less than one in five mothers (18%) who felt they had experienced negative treatment raised this with their manager. Barriers that mothers reported to raising complaints included: fear of creating bad feeling with their colleagues or employer; fear of adverse consequences; stress and tiredness; belief that nothing would change; lack of information about rights; lack of clear complaints procedures; a sense of guilt; and the financial cost of pursuing a complaint. Some mothers raised a

¹⁵ See www.acas.org.uk/media/pdf/l/g/Discipline-and-grievances-Acas-guide.pdf [Accessed 10 December 2015].

number of these barriers.

8.2 Complaints or informal discussions about unfair treatment relating to pregnancy or maternity

Among employers who had managed a pregnant employee in the last three years, 1% reported having received any formal written complaint from employees relating to pregnancy or maternity-related discrimination, with large workplaces (250 or more staff) more likely to have received formal complaints (7%). Public sector employers (3%) were more likely than private sector employers (1%) to have received any formal complaints. Large public sector establishments (12%) were more likely than large private sector establishments (5%) to have received any formal complaints. Employer size was more important than sector type in determining the likelihood of formal complaints being received.

Employers in London who had managed a pregnant employee in the last three years were also more likely to have received formal complaints (4%) than average (1%).

Among employers who had managed a pregnant employee in the last three years, 4% reported informal discussions with pregnant women, or those on or returning from maternity leave, regarding perceptions of unfair treatment. The likelihood of having had informal discussions increased with employer size, from 3% of small employers to 8% of medium-sized employers and 18% of large employers. The proportion of large employers having informal discussions increased to around one in five (21%) workplaces not recognising a trade union and one in four in the public sector.

Overall, 5% of employers had received either a formal complaint relating to pregnancy or maternity-related discrimination or had informal discussions with pregnant women or those on or returning from maternity leave regarding perceptions of unfair treatment. One in five large employers (21%) reported either of these experiences.

Figure 8.1: Employers' perspective: summary of formal complaints about discrimination and informal discussions about perceived unfair treatment



8.3 Outcomes of formal complaints

Where employers had received a formal complaint the most common outcome was that the complaint was withdrawn (28%). Where a complaint was decided internally it was more common for it be upheld (15%) than for it to be dismissed (9%). Almost three in 10 (28%) said the complaint had been resolved, though the employer did not indicate in whose favour or by what means. Other outcomes included:

- the complaint was ongoing internally (6%);*
- the case went to employment tribunal and decided in the woman's favour (5%);*
- the complaint lodged with employment tribunal and ongoing (4%);*
- the complaint lodged with employment tribunal but settled before case heard (2%);* and
- the case went to employment tribunal and decided in employer's favour (2%)*.

One employer in the follow-up interviews received a number of formal complaints from mothers about how the organisation had dealt with flexible working requests. This has prompted the employer to reconsider its policy.

Case study: Example of employer who has received formal complaints, 250+ employees, private sector, Manufacturing

Alexander is the HR Manager at a large manufacturing plant. He says the company generally offers employees the legal minimum in terms of pay and benefits. Their entry-level workforce is expanding and they are taking on more permanent staff rather than agency workers. They also have managerial/skilled roles on site. He says that traditionally the company has not supported flexible working practices, believing that they would be hard to manage operationally; they have been made available to a limited number of people.

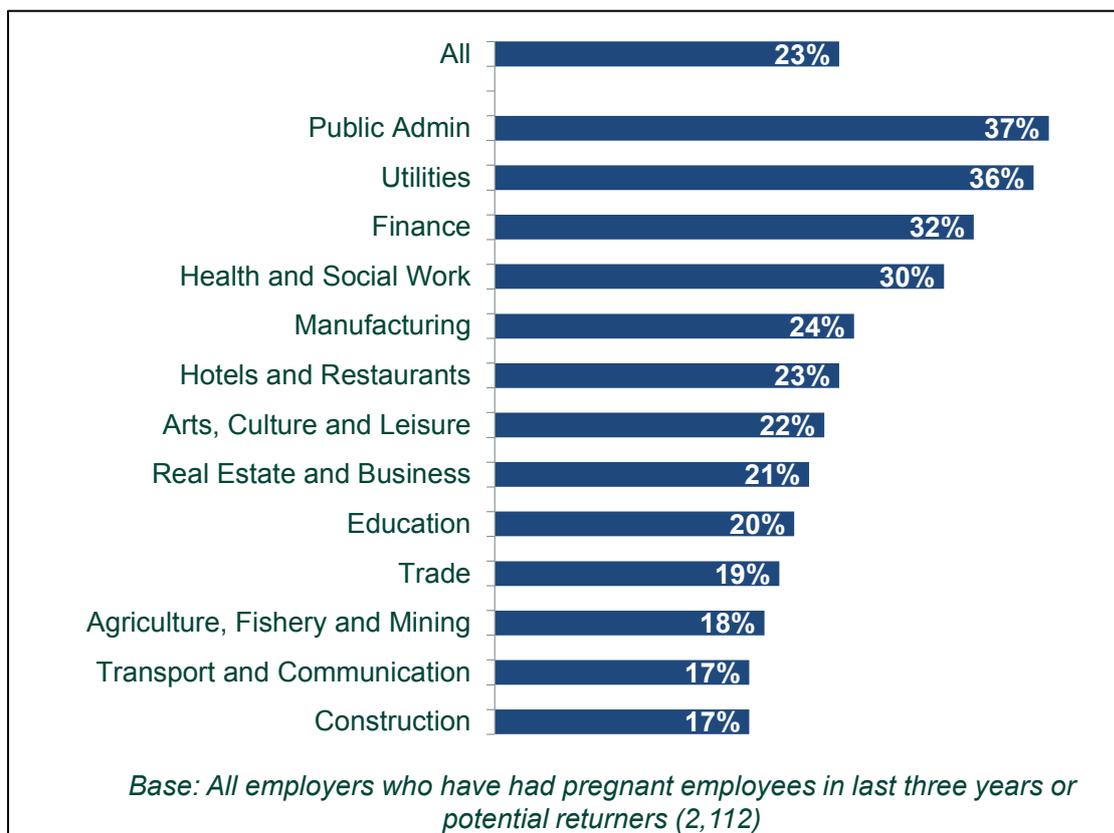
He believes the company is 'reasonable' when it consider requests, but on a couple of occasions shop floor workers returning from maternity leave have had their requests turned down and then consulted their union representative. The company has received formal complaints when there has been disagreement about what is 'reasonable' to request. *Alexander* says this has prompted HR to start developing a formal flexible working policy.

'We are getting to the point... where we are going to develop our thinking on these [flexible working] policies... because we are getting more and more comments and questions and "Why can't we do this?"'

8.4 Informal discussions between line managers and HR about managing pregnancy and maternity

Almost one in four employers (23%) said there had been informal discussions between line managers and the person (or department) in charge of HR about managing pregnant women or those on or returning from maternity leave. Informal discussions were more likely to be reported in the Public Administration (37%) (Figure 8.2).

Figure 8.2: Informal discussions between line managers and the HR department about managing pregnancy and maternity, by sector



The prevalence of these discussions increased with the size of the employer from one in five small employers (it should be noted that in smaller organisations there may only be one individual performing both a line manager and HR function), to a third of medium (32%) and over half of large employers (51%).

Private sector employers (21%) were less likely to report having these discussions than those in the third (31%) and public (28%) sectors, with the proportion falling to 18% among small private sector employers.

In addition, employers recognising either a trade union or staff association were more likely to report having discussions between line managers and HR than employers without either of these (29% and 21% respectively).

These discussions tended to focus on general issues relating to managing pregnancy and maternity (43%), or flexible working (34%, rising to 57% among large public sector employers). They also discussed health and safety (14%) and arranging cover for women on maternity leave (13%), (see Figure 8.3).

Figure 8.3: Subject of informal discussions between managers and HR about managing pregnancy and maternity



8.5 Reasons why women experiencing pregnancy and maternity do not raise complaints

The follow-up interviews explored employers' processes for employees wanting to raise a complaint. They also explored employers' views on the different findings in the employers' and mothers' surveys relating to the reporting of unfair treatment. 20% of mothers felt they had been treated unfairly by their line manager or employer, either after telling them they were pregnant, on maternity leave or on their return to work. However, only 5% of employers said they received a formal complaint or had informal discussions with an employee about such unfair treatment. The survey of mothers found only 14% of mothers who said they had experienced any type of negative or possibly discriminatory experience raised this with their employer.

In most cases, employers felt that they encouraged employees to raise issues or complaints. They described structured complaints procedures, usually starting with an informal discussion between the employee and their line manager (unless the

complaint related to the line manager). If this did not resolve the complaint, the employee could take it further as a grievance; employees could usually appeal against decisions, at which point their complaint was escalated to more senior staff or the HR function within the business.

Most employers felt the culture of their workplace facilitated honest communication about problems, saying that managers or those responsible for HR had an 'open door' policy for complaints, and that employees could easily access their complaints procedure (for example, in a staff handbook or on an intranet). During the follow-up interviews, some employers felt that staff readily came forward if they had complaints or concerns. One employer described how the culture of openness depended on leadership from senior management.

'We are very open and transparent here so we welcome people. All our staff meetings are, "Please, if you have something you need to tell us, do". I get a lot of people [who] just want to offload something and they know it will not go out of this room unless they want it to...When we had our last head teacher there wasn't that atmosphere here and you couldn't [be open] so I can see that a change of leadership totally changes that openness.'

— 100-249 employees, public sector, Education

Some of those included in the follow-up interviews felt there was absolutely no reason why a woman should not come forward with a complaint within their organisation. When asked why women in general (not specifically within their own organisation) might not come forward with complaints, many employers suggested (usually hypothetical) reasons why this might be the case.

Most often, employers felt some women might be afraid to raise a complaint because they did not want to be seen as a 'trouble-maker'.

'Nobody really wants to go through the formal process because all that happens is you end up being labelled.'

— 250+ employees, public sector, Public Administration

Some employers felt mothers might fear negative repercussions resulting from a complaint, for example unfair treatment around returning to work from maternity leave, or unfair dismissal. Some referred specifically to women's lack of job security; some employers saw women on fixed-term contracts and agency workers as being particularly vulnerable.

'They might be scared to raise issues in case it impacts on them as an individual either returning to work or on their return to work. I'm sure that women are frightened of that... perhaps either not having the confidence to make the complaint or voice their concerns for fear of some sort of comeback, retribution, or a fear of impacting on them being seen as a trouble-maker.'

— 250+ employees, public sector, Construction

Some employers suggested some women might be intimidated by the prospect of complaining about a maternity-related issue, particularly in a male-dominated environment. One employer admitted that their senior partner's aggressive approach might put women off raising complaints. Two employers speculated mothers might be deterred from raising issues because of worries about being perceived to be less committed to work because they were a new mother.

Some employers said that raising a complaint could be more difficult in smaller organisations for two reasons: firstly, because there were fewer levels of management to deal with the complaint, making it harder to 'depersonalise' the issue; and secondly, because it could damage working relationships in a small team.

'We are a small organisation so it's a little difficult. In the first instance they can complain directly to their own manager. There are 35 of us in total so the tier of management – there's basically one... If there's six of you in an office and one of you complains about another it can cause a bit of hard feeling and quite often it's better not to complain and to keep your head down because the office dynamic works better.'

— 25-49 employees, private Sector, Real Estate and Business

A few employers suggested that some women who had a complaint might lack awareness about the complaints procedure and whom to approach. Some felt it was possible complaints were not properly considered because they had not been appropriately escalated.

A couple of employers dismissed the idea of mothers complaining about their treatment. This was either because they felt maternity rights favoured the employee too strongly so that there could not be anything to complain about, or because they characterised mothers returning from maternity leave as being prone to over-reaction.

'Obviously [when] you've had a baby, even [if] it's a few months after, [and] you haven't had a lot of contact with other adults, you tend to take things more, blow things up more than what they are.'

— 250+ employees, private sector, Health and Social Work

Some employers said they were aware of occasions when women were unhappy about the outcomes of discussions about flexible working arrangements, but did not raise a formal complaint. The employers attributed some of this dissatisfaction to employees' inflexibility and sometimes to employees having unrealistic expectations.

Broadly speaking, the reasons suggested by employers in the interviews as to why women may be reluctant to make complaints or raise concerns matches the barriers mentioned by women themselves in the mothers' survey. These were:

- fear of creating bad feeling;

- fear of adverse consequences;
- stress and tiredness;
- a belief that nothing would change;
- lack of information about rights;
- lack of clear complaints procedures;
- a sense of guilt among mothers; and
- The financial cost of pursuing a complaint.

8.6 Employment tribunals

Just under two in five (37%) employers who had a pregnancy or mother returning from maternity leave in the last three years were aware of the introduction of fees for employees bringing a case to an employment tribunal from July 2013. Awareness increased with size of employer, from a third of small employers (32%), to around half of medium (51%) and just under four in five large employers (78%).

8% of those aware of the changes felt they have had an impact for their organisation and 7% for their employees. Large employers were more likely to think there has been an impact for both their organisation (17%) and employees (13%). In addition, public sector employers were more likely (14%) than private sector (6%) to feel that the change has had an impact on their employees.

Employers who felt employment tribunal fees have had an impact for their organisation or their employees said these fees had:

- reduced speculative or weak claims (26%);
- deterred people from making claims (21%) or led to fewer claims (17%);
- led to changes in internal processes (9%);
- led to more cases being settled before tribunal (6%);
- deterred people with legitimate cases from pursuing these at tribunal (4%).

9. Recruitment

This chapter examines employer attitudes towards pregnancy in relation to recruitment, in particular whether employers feel women should tell them if they are pregnant during recruitment and whether it is acceptable to ask women if they plan to have children. It also examines views on recruiting women with young children.

An employer is legally required when making recruitment decisions not to treat a woman unfavourably because she is pregnant, or might become pregnant. If an employer asks an applicant questions about pregnancy or her plans to start a family, and she is not appointed to a post, an employment tribunal may conclude that discrimination has occurred.

Pregnancy and maternity discrimination is unlawful under the Equality Act 2010. Any unfavourable treatment because of pregnancy or maternity leave is unlawful. Unfavourable treatment includes refusing to recruit a woman because she is pregnant or on maternity leave.

9.1 Summary

The majority of employers (70%) believed that women should declare to potential employers during recruitment if they are pregnant. The reasons given by employers in the interviews suggested that they were unwilling to employ pregnant women because they believed that:

- finding cover for someone on maternity leave is costly, time consuming and disruptive;
- the time spent training new employees is wasted if they go off on maternity leave;
- the time it takes for new employees to settle into a team and build relationships with colleagues and clients was wasted;
- uncertainty over whether the mother will return to work was difficult to manage;
- not disclosing they are pregnant at interview meant the employment relationship did not start off on an open and honest foundation;
- a pregnant employee might not fulfil the job role properly, particularly if it involved manual tasks, due to health and safety risks.

A quarter of employers felt that it was reasonable during recruitment to ask women about their future plans to have children. The follow-up interviews showed that some employers felt that asking was unacceptable, while others felt it was pointless as an employer had no control over a woman's plans to have children.

One in four employers (24%) believed that women should work for them for at least a year before deciding to have children (63% did not believe this).

Overall, three in 10 workplaces (29%) provided guidelines, training or other support regarding employment law for managers involved in recruitment. This increased by firm size, from just over one in four small workplaces (27%) to around half of medium-sized and large establishments (47% and 54% respectively). Employers who did not provide guidelines, training or other support to managers on pregnancy and maternity-related issues were more likely to believe both that women should declare during recruitment if they are pregnant and that it is reasonable to ask women during recruitment about their plans to have children.

9.2 Employer attitudes on pregnancy issues at recruitment

Seven in 10 employers (70%) felt women should declare upfront during recruitment if they are pregnant.

Workplaces that had managed a pregnant worker in the last three years (63%) were less likely to feel women should declare upfront during recruitment if they are pregnant than those that had not (75%).

Small workplaces were more likely to believe women should declare upfront during recruitment if they are pregnant (72%) than medium-sized (57%) or large workplaces (37%).

There were also differences by sector, with private sector employers most likely to believe women should declare during recruitment if they are pregnant (74%), compared to 58% of third sector and 45% of public sector employers. The view that women should declare upfront during recruitment if they are pregnant was more likely in the following sectors:

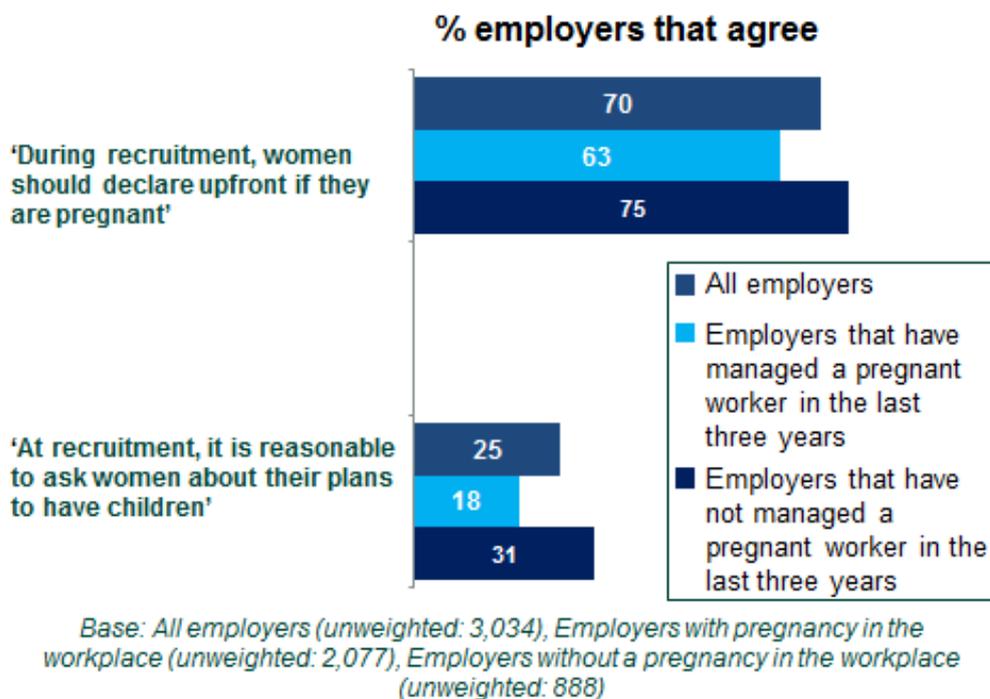
- Construction (87%);
- Agriculture, Fishery and Mining (84%);
- Manufacturing (82%); and
- Hotels and Restaurants (76%).

A quarter of employers believed that it is reasonable to ask women at recruitment about their plans to have children. The view was more common among workplaces without a pregnant worker in the last three years (31% compared with 18% among those with any recent pregnant employees) and the following types of employer:

- employers in Agriculture, Fishery and Mining (48%) and Manufacturing (33%) sectors;
- single-site organisations (32%);

- private sector (28% compared with 14% of third sector and 6% of public sector employers);
- those not recognising trade unions or staff associations (28%);
- those based in England (26%, compared with 18% of those based in Scotland and 15% of those in Wales); and
- small employers (26% compared with 13% of medium and 5% of large employers).

Figure 9.1: Views on women declaring they are pregnant at recruitment and asking women about plans to have children during recruitment



The follow-up interviews explored employer attitudes to asking about women's plans to have children and their expectations around women declaring they were pregnant during recruitment. Employers who felt that women should declare their pregnancy during recruitment usually had reservations about hiring them, believing that taking on a pregnant employee would be problematic. There were various reasons employers gave for this, including:

- Finding cover for someone on maternity leave is costly and time-consuming.

'There are significant costs. I mean here the salary, the cost of recruitment,

paying for the advert. Also it takes time to interview and recruit the right person.'

— 5-9 employees, private sector, Education

- The time spent training new employees is seen as 'wasted' if they take maternity leave.

'This person [an employee who is pregnant when they start] might be here for six months' training, all the resources [that that takes], then we lose that person for up to a year.'

— 250+ employees, private sector, Transport and Communication

- The time it takes new employees to settle into a team and build relationships with colleagues and clients was affected if mothers then took maternity leave.

'The success of a business is about relationships. If you're trying to bring someone in to manage an account, their primary focus, certainly the first six to 12 months, is going to be building the relationship with the client, with the workforce, shop stewards, union reps, that sort of thing, and if you're hiring someone that might then not be in the business for up to 12 months, do you hire them? That isn't necessarily good for the business. I fully accept you should hire the right person for the job, but a situation where it's all about the relationship, from a client's perspective that [having someone start a job and go on maternity leave shortly afterwards] might create an element of lack of confidence, some doubt about the business.'

— 5-9 employees, private sector, Real Estate and Business

- Uncertainty over whether the mother will return to work was difficult to manage. This was more likely to be reported by smaller employers and those within particular sectors, for example in the Education sector, where continuity of teacher-pupil relationships are deemed very important for the pupils and their parents, or in the Transport and Communication sector as per the example below.

'It's not a big issue but it's an issue because you have to leave the role open because it's the law but we would like to be informed as quickly as that individual could honestly tell us that they didn't want to return so we could give the job to somebody else. That would be the only issue – that they were honest about whether they wanted to come back.'

— 25-49 employees, private sector, Transport and Communication

- Health and safety concerns about the ability of a pregnant employee to fulfil the job role properly, particularly where the job involved manual tasks.
- ‘A belief that the employment relationship would not start off on an open and honest foundation if women did not disclose they were pregnant at a recruitment interview.

‘When I started one of the members of staff had recently been taken on but hadn’t told them she was pregnant [at interview]...I found that to be unacceptable – she should have advised at interview or at the point of being offered the job. We had nobody in post for a role we had advertised for...It doesn’t endear a person to an organisation.’

— 10-24 employees, third sector, Real Estate and Business

However, two employers included in the follow-up interviews had recruited candidates they knew were pregnant as they were the most suitable for the position (as the law requires): they thought this demonstrated they were a ‘best practice’ employer because they felt so many employers would not recruit a pregnant applicant.

Case study: Example of an employer who hired a woman that declared they were pregnant at interview, 5-9 employees, private sector, Education

Gillian is the head teacher at a private primary school. Across the group of four schools there are 30 employees; 29 are female. *Gillian* thinks the organisation is very supportive although she found four staff members being pregnant at one site challenging.

Gillian said she would not ask women if they were pregnant, had a family or were planning one. She thinks this is ‘personal information’. However, she recently interviewed a candidate who told them she was pregnant, and they decided to hire her as she proved to be the best candidate.

‘She was pregnant when we interviewed her – she told us about it (it wasn’t evident). We liked her, she was the best candidate, and very honest about it. I felt she was so much stronger than the others, and a better fit for the school and the team.’

She felt it was best they knew about the pregnancy as there are health and safety risks to consider within a school.

‘Any working relationship needs to be based on trust, so it’s better to know. Plus we can protect them in the workplace by not asking them to carry heavy things or deal with the kids who might kick out for example.’

Some employers openly admitted they would discriminate against a pregnant candidate, and said they would like to be able to ask whether candidates are

pregnant at interview so they could decide not to recruit them. For other employers it was often implicit that they would prefer to select a candidate that was not pregnant if there were two candidates equal in other respects.

'I think it's outrageous that you shouldn't [have to declare if you are pregnant]. You take someone on, you train them, it takes three months before they're useful by which time if they're already pregnant, they're going on maternity leave and I've got all the hassle of trying to find somebody else. [If I knew a candidate was pregnant] I wouldn't say anything to her face but I wouldn't recruit her.'

— 10-24 employees, private sector, Real Estate and Business

'I have had one instance where an employee started and then announced they were pregnant a couple of months later. I felt a bit angry, because I was going to have to do it [recruitment] again. I just felt a bit time-wasting, having spent all that time choosing someone. Sometimes you could be torn between two candidates, and it shouldn't be the deciding factor, but in the back of your mind it might be. If I'd known that [they were pregnant] before, I'd like to think it wouldn't have influenced my decision, but I know it would have been at the back of my mind.'

— 100-249 employees, private sector, Hotels and Restaurants

One employer indicated they would be unlikely to take on someone who was pregnant if they were recruiting to fill an immediate, short-term need, but would consider it if they were looking over the longer term and the person was the best candidate.

'We always appoint on merit so a lot would depend on her experience and skill set. If she was exceptional or the best candidate I'm sure it [her pregnancy] wouldn't [impact the decision] and we would be looking more at the long term... [but] it could be that if we wanted someone immediately and for the short term and there was another candidate and we knew she was going to go on maternity leave that could influence a decision.'

— 50-99 employees, private sector, Transport and Communication

Many employers justified their view by saying there were no other circumstances in which they could envisage recruiting an individual who was about to have a known period of absence.

'Personally, yes, I do [think you should be able to ask if a candidate is pregnant at interview]. It is almost like taking someone on to do a manual job and finding that they are booked in for a knee operation. To me it is the same principle – it's about 'known' absence before they join. You don't want to feel that someone is joining just to get the advantage and benefits of longer standing employees.'

— 50-99 employees, private sector, Construction

One in four employers believed it was reasonable to ask women at recruitment about their plans to have children. However, in the follow-up interviews most employers felt questions about plans to have children were unacceptable and accepted the fact that a woman may become pregnant shortly after joining their organisation.

This was for several reasons, for example because business plans can change, women can have unplanned pregnancies and it could take longer than expected to conceive. However, there was often a sense of frustration when a woman became pregnant soon after joining (or employers said there would be if that happened).

'Frustration with a woman becoming pregnant soon after starting would happen for two reasons: financial - induction costs; delivering training; people shadowing and not doing own job; expenses to and from training; interview process itself; and building relationships – as this takes time. [The idea of] working for a year before becoming pregnant – it has some merits but it's not manageable on balance, it's not right. How do you police that?'

— 5-9 employees, private sector, Real Estate and Business

One in four employers (24%) believed women should work for them for at least a year before deciding to have children; 63% did not. Small employers (25%) were more likely to think women should work for them for at least year compared with medium (16%) or large (10%) employers. In the follow-up interviews some employers said:

- They expect a 'return' from employees they have recruited and trained before they take maternity leave;
- It can take up to a year before someone is fully contributing in their new position;
- Client relationships can be damaged if someone starts in a position and takes maternity leave within the first year.

9.3 Employer attitudes on recruitment of mothers with young children

Most employers in the follow-up interviews said their recruitment decision would not be affected if a candidate had young children. They viewed this differently to a candidate being pregnant at interview, which they felt was more 'dishonest' if known and not declared.

'If they were going to have children in the future, I don't see that as a major issue really but if an employee [is pregnant] straight away [after being recruited], I do see that as not totally honest with your employer [at the interview].'

— 10-24 employees, private sector, Arts, Culture and Leisure

Some employers said they would prefer candidates to be honest and open about their family situation at the interview stage. This was so that employers had more advanced warning about any implications of recruiting that candidate (for example, flexible working around childcare).

'I don't think it's unreasonable to ask "what are your family circumstances?" simply because one can make allowances if you know about an issue. If you don't know about an issue then it may be tricky to make allowances once the person is here. That's the sort of organisation we are – we are not going to penalise somebody because they want flexible hours. Current commitments are something you should be able to ask about. However, I realise that is not legal at the moment.'

— 10-24 employees, private sector, Real Estate and Business

There was some expectation within the focus group with employers that had not managed a pregnant employee in the last three years that a candidate should not apply for a position if they are not 'able to perform the role'.

'Well I think what we're saying is, I liked your question about the way you phrased it, "Are you able to perform the role? Is there anything you need to tell us about performing the role?" It's only if it affects the role that you need to know before you've made that recruitment decision. Anything children related. So I am giving them a golden opportunity to declare, "Well actually I'm three months pregnant and if I'm totally honest with you I don't think I would be able to fulfil this application or that obligation".'

— Focus group: Employer with no experience of pregnancy in workplace in last three years

Some employers in the focus groups said they would be concerned a candidate with young children might have another pregnancy soon or that their family situation may affect their ability to perform in the role and this could influence their recruitment decisions. It is unlawful for an employer not to appoint a woman who is pregnant or may become pregnant. The job must be offered to the best candidate based on skills and experience.

Case study: Example of employer who is reluctant to recruit women with young children, 10-24 employees, private sector, Real Estate and Business

Freja is the Operations Manager at a small consultancy owned by a number of directors who work on site. She looks after HR for the firm as there is no HR professional and as a small business they update themselves on an ad hoc, 'need to know' basis.

They have only had one pregnant employee in the last few years. They have had several with young children who had decided to leave because the work involved too much travel and late night working.

'I think the nature of the job, could be anywhere in the country, lots of evenings, lots of travel, I think that's quite challenging to come back in the same role. So when someone has come back [and] stipulated that they did not want to travel, which was accommodated, and only a certain number of ... nights a week was set, and that they could do a reduced working week, but would be available to talk to by phone on days off if needed. But it's not ideal . . . so when we were looking to replace them after they left; I think it was a kind of unspoken thing.'

The company was reluctant to consider a recent applicant who also had a young child as they assumed the hours or workload would not be suitable for her.

'So we had an applicant who had already had a baby [recently], who wanted to come in as a researcher, and I think it was a case of "once bitten, twice shy", you know, "are we really going to offer this job to someone with a small baby again, because we know we've had three people leave because they couldn't handle the situation with a young child.'"

Freja thinks it should be fine to ask about family circumstances during interviews, especially when travel and unusual hours are part of the job. She is unclear about what the legislation is regarding this.

'There are certain things you're not allowed to ask in interview: we never ask about age; we don't ask people if they are married. We happened to know because this person [the candidate] had pre-announced for us, so we knew her whole situation. I think it's a difficult balance to strike, when you know these things mustn't affect your decision, and you mustn't discriminate against people, but the nature of the job it's very difficult to do. If you have two equally qualified candidates, and you need them to be committed and to be able to travel, and one of them is saying "well I don't want to travel", well obviously it's going to influence your decision.'

'I think you should be able to ask those kind of questions – partly because it gives you a sense of the candidate, and their priorities in life, their interests. It depends on the role, but somewhere like here where logistically it's important to know whether people can manage what is fundamentally an important part of their job, I think it's really important that you're able to discuss it fully, and you don't feel that you're not allowed to ask that kind of thing. I'm not sure I even know if you're allowed to ask that kind of thing or not.'

In the focus group with employers with no pregnancies in their workplace in the last three years, some employers said HR teams had problems with senior staff not following guidance during recruitment, for example asking candidates about their family situation.

There were also some employers who saw the period when a woman may be or is having children as a time when a women's career is effectively 'on hold'. They said this could have an impact on decisions about internal recruitment and also promotion. Some felt it was natural for mothers to change their priorities after having

a child, and assumed that mothers would be (at least for a time) less career-driven. One employer commented that new mothers can lack the same ambition that they had prior to having a child:

'They choose not to go on training for further progression because they're happy as they are – they may be pregnant or they have young children so they're happy with that status right now. It works for them and they're going to have a few years of just plodding along.'

— 250+ employees, private sector, Manufacturing

Employers' view that pregnancy and maternity can affect promotion prospects is supported by the mothers' survey, where one in 10 reported they failed to gain a promotion they felt they deserved or were otherwise side-lined either while working when pregnant (5%), while on maternity leave (3%) or when they returned from maternity leave (3%). In addition, one in 12 mothers (8%) said they had a reduction in their salary or bonus, and one in 20 said they received a lower pay rise or bonus than their peers.

9.4 Providing guidelines and training in employment law for those involved in recruitment

Where employers provide guidelines, training or other support for managers on pregnancy and maternity-related issues (41% of employers), in seven in 10 cases (71%) this included training in employment law for those involved in recruitment. This was more likely to be the case in medium-sized and large employers (77% and 82% respectively) than in small workplaces (70%). Overall, three in 10 employers (29%) provided guidelines, training or other support for managers involved in recruitment regarding employment law. This varied from just over one in four small workplaces (27%) to around half of medium-sized and large establishments (47% and 54% respectively).

Employers who did not provide guidelines, training or other support to managers on pregnancy and maternity-related issues were more likely to believe both that women should declare upfront during recruitment if they are pregnant and that it is reasonable to ask women during recruitment about their plans to have children:

- 79% of employers who did not provide guidance for staff involved in recruitment believed women should declare upfront during recruitment if they are pregnant, compared to 58% of those that did provide guidance;
- 32% that did not provide guidance believed it was reasonable to ask women about their plans to have children during recruitment, compared to 15% of those employers who did.

10. Redundancy and dismissals

This chapter explores employers' perspectives on redundancies of pregnant women and those on maternity leave. It considers the prevalence and selection criteria for redundancy, as well as the level of awareness and attitudes towards legislation protecting those on OML.

Interviews took place between October 2014 and April 2015 and employers were asked about their experiences in the last three years. This period was one of economic difficulty and thus overall redundancies were likely to be higher than in times of stability.

If employers are planning to make redundancies, to comply with the law they should ensure that the selection criteria used are objective, fair and non-discriminatory. This includes that the employer must not include pregnancy-related sickness absence or absence on maternity leave as part of the selection criteria for redundancy. This does not mean, however, that an employer must automatically assume that an employee absent by reason of pregnancy would be the top performer in a redundancy exercise had she been in work since this could amount to discrimination against those employees who are present and whose skills and capabilities can be assessed. A fair assessment of capabilities must be made.

If there are other suitable alternative jobs, Regulation 10 of the Maternity and Parental Leave Regulations 1999 gives employees who are made redundant during either their Ordinary or Additional Maternity Leave the right to be offered one of these jobs before any other employee. If employers do not do this then the dismissal is likely to be automatically unfair. Employees on maternity leave must be made aware of any suitable alternative vacancies and offered them without the need to apply. However, if redundancy takes effect following return from maternity leave, the employee no longer has this protection.

10.1 Summary

A low share (2%) of employers who had managed a pregnant worker in the last three years had made at least one woman who was pregnant or on maternity leave redundant. Over half (51%) did not offer a suitable alternative position to all or some of these employees. 1% of employers who had managed a pregnant worker in the last three years had dismissed a woman who was pregnant or on maternity leave.

Where employers had offered alternative positions to women on maternity leave, three in 10 (31%) had not offered them alternative positions ahead of other employees as legislation requires them to.

Over one in four employers (28%) felt that enhanced protection from redundancy during OML was unreasonable, and one in eight employers (13%) who had any pregnant employee in the workplace in the last three years found it difficult to facilitate this right within their establishment.

Follow-up interviews found that employers had different levels of awareness and

understanding of what enhanced protection from redundancy means and what employers have to do in order to be compliant. Some felt they simply had a duty to treat those on maternity leave the same as other employees, while others assumed that they had to exclude those on maternity leave from the selection process entirely.

10.2 Employers' experience and timing of redundancy

The survey of mothers found 6% of mothers reported being made redundant at some point during pregnancy, maternity leave, or on return from maternity leave. This includes 1% who were made redundant in circumstances where they:

- did not take voluntary redundancy
- were not offered an alternative position at the same or a higher level, or
- did not report other staff being made redundant at the same time.

Overall, 11% of mothers felt forced to leave their job: this was far more often because they felt so poorly treated that they had to leave (9%) than because of dismissal (1%) or being made compulsorily redundant where others in their workplace were not (1%).

Almost one in four employers (23%) had made staff redundant in the last three years. Of the employers who had a pregnant employee in the past three years, 2% had made a pregnant woman redundant and 2% had made a woman on maternity leave redundant.

Large employers (13%) were most likely to have made pregnant women redundant, rising to 14% among large public sector employers and 16% among large employers with no trade union. Other groups more likely to have made pregnant women redundant included:

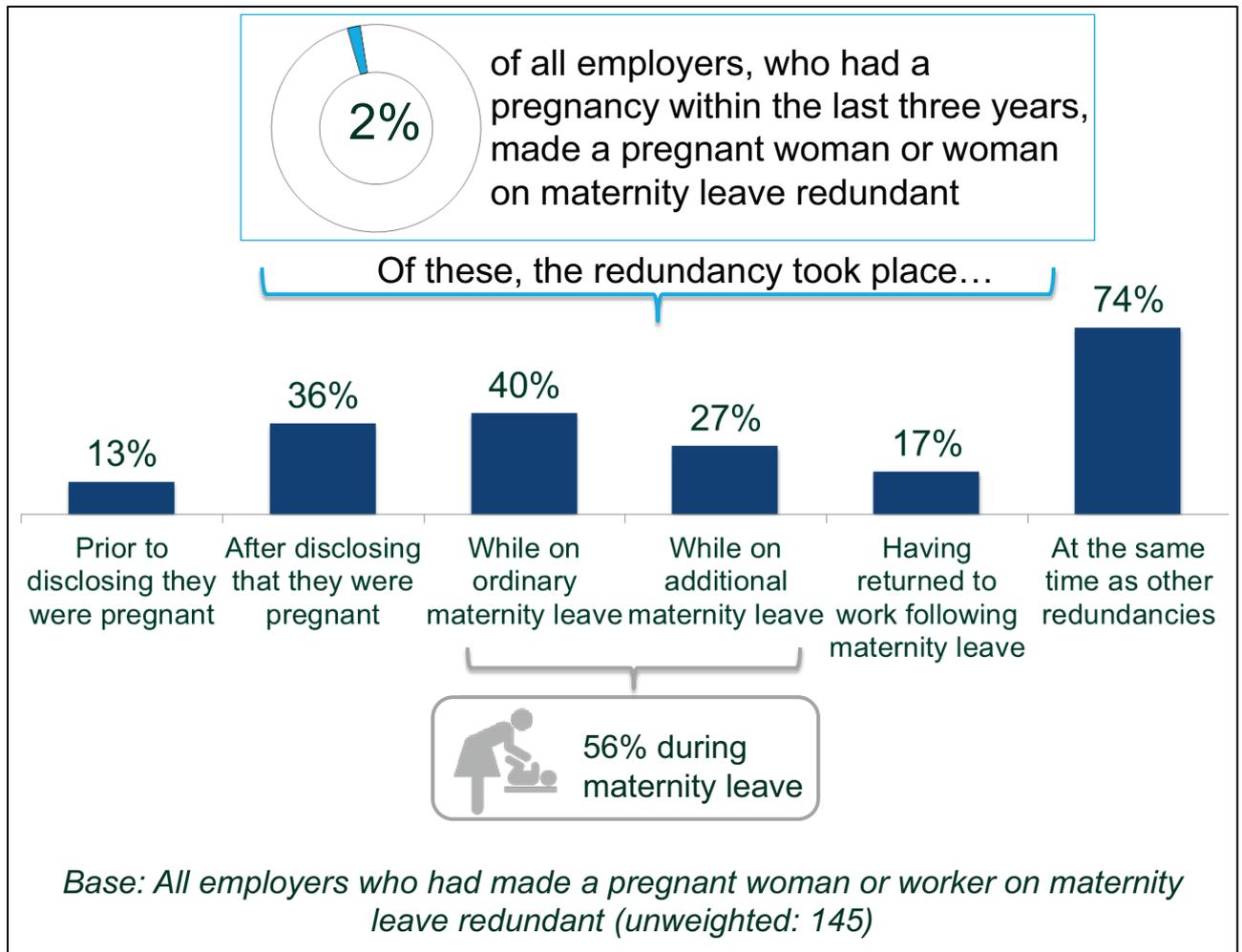
- Finance (13%) and Public Administration (7%) sectors;
- employers with a staff association but no trade union (10%); and
- public sector employers (4%).

Similarly, large employers were also most likely to make women returning from maternity leave redundant (12%, again rising to 15% among large employers without a trade union).

Employers made women redundant at different stages during their pregnancy, maternity leave or return from maternity leave (see Figure 10.1). It was most common for employers to make women redundant after a woman disclosed she was pregnant (36%) or while she was on OML (40%). In comparison, relatively few employers (17%) made a woman redundant after they had returned following maternity leave. Note that in most cases the redundancy/redundancies were made at the same time other employees were made redundant in the organisation and, in

some cases, employers had made a pregnant woman redundant before they knew she was pregnant.

Figure 10.1: Employers' perspective: timing of redundancies among pregnant women and those on maternity leave



10.3 Employer approaches towards redundancy

Around two in three employers felt they have clear and transparent redundancy selection processes (62%). Large employers were more likely to report this (84%) compared with medium (68%) and small employers (60%). Other groups more likely to report they had clear and transparent redundancy selection processes were:

- Finance (79%), Public Administration (74%), and Real Estate and Business (71%) sectors. However, employers in the Trade sector were less likely to report this (52%);
- public sector employers (69%); and

- those recognising a trade union (69% who did compared with 60% who did not).

Follow-up interviews found most employers adopted formal processes for dealing with redundancy selection. Their approach tended to be that all eligible workers would form a pool of candidates and then selection criteria would be used to narrow this down to a shortlist of 'at risk' individuals. Criteria for selection tended to include:

- length of service
- disciplinary action
- number of absences
- employee skills
- experience.

Once employers had selected a shortlist of candidates, most said they conducted interviews to make a final redundancy decision. The follow-up interviews revealed employers rarely said they took pregnancy and maternity into account when making their selection for redundancy. Some employers reported not having to make this decision; in many cases employees were offered voluntary redundancy and accepted it.

The follow-up interviews also showed that one employer offered voluntary redundancy to those on maternity leave first.

Case study: Example of employer who targeted those on maternity leave first for voluntary redundancy, 250+ employees, private sector, Construction

Matthew is the HR Director at a large construction company which has managed around eight pregnant employees in the last three years. He feels the company has the resources and formal processes to manage pregnancy and maternity leave well. He feels 'lucky' that the company can usually afford to pay for maternity cover, so teams do not have to cover the additional work while a woman is on maternity leave.

When they have to make redundancies they say they always first ask for volunteers including those on maternity leave (or long-term sick). Last time two of those on maternity leave took redundancy. As they had cover in place already, they thought this minimised disruption for the business and they avoided having to consider flexible working requests for mothers returning to work from maternity leave.

'We always ask for volunteers first and we always include anybody who's on long-term sick or on maternity leave or anything like that. Just asking for volunteers so we give everybody the option, but we have had two people who are on maternity leave take it. They'd already got the idea that they didn't want to come back full time so this was the opportunity to go with a little bit of money, so they took it which was fine for them. We'd already got their roles covered anyway temporarily and just kept that person on instead, so that was fine.'

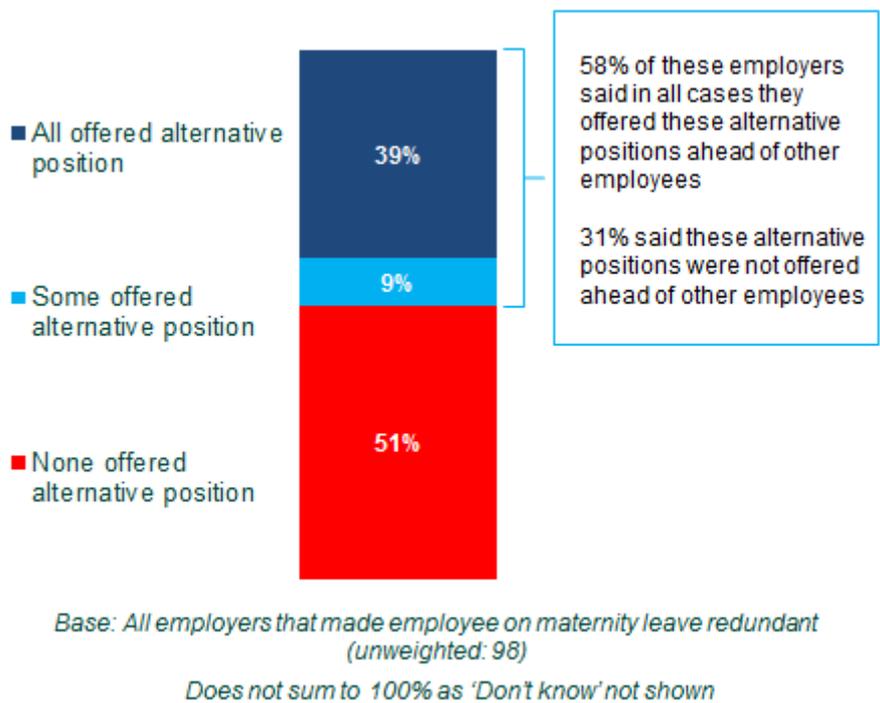
10.4 Alternative positions offered following redundancy

Regulation 10 sets out that women on maternity leave affected by redundancy must be informed of any suitable vacancies available up to the end of their employment contract.

Just over half of employers (51%) did not offer an alternative position to any of the women on maternity leave that they made redundant.¹⁶ Two in five employers (39%) offered a suitable alternative vacancy to all women on maternity leave that they made redundant, while one in 11 (9%) offered an alternative to some of these employees, as shown in Figure 10.2.

¹⁶ Note that this is still compliant with legislation as long as no alternative positions were available.

Figure 10.2: Offering alternative positions when making those on maternity leave redundant



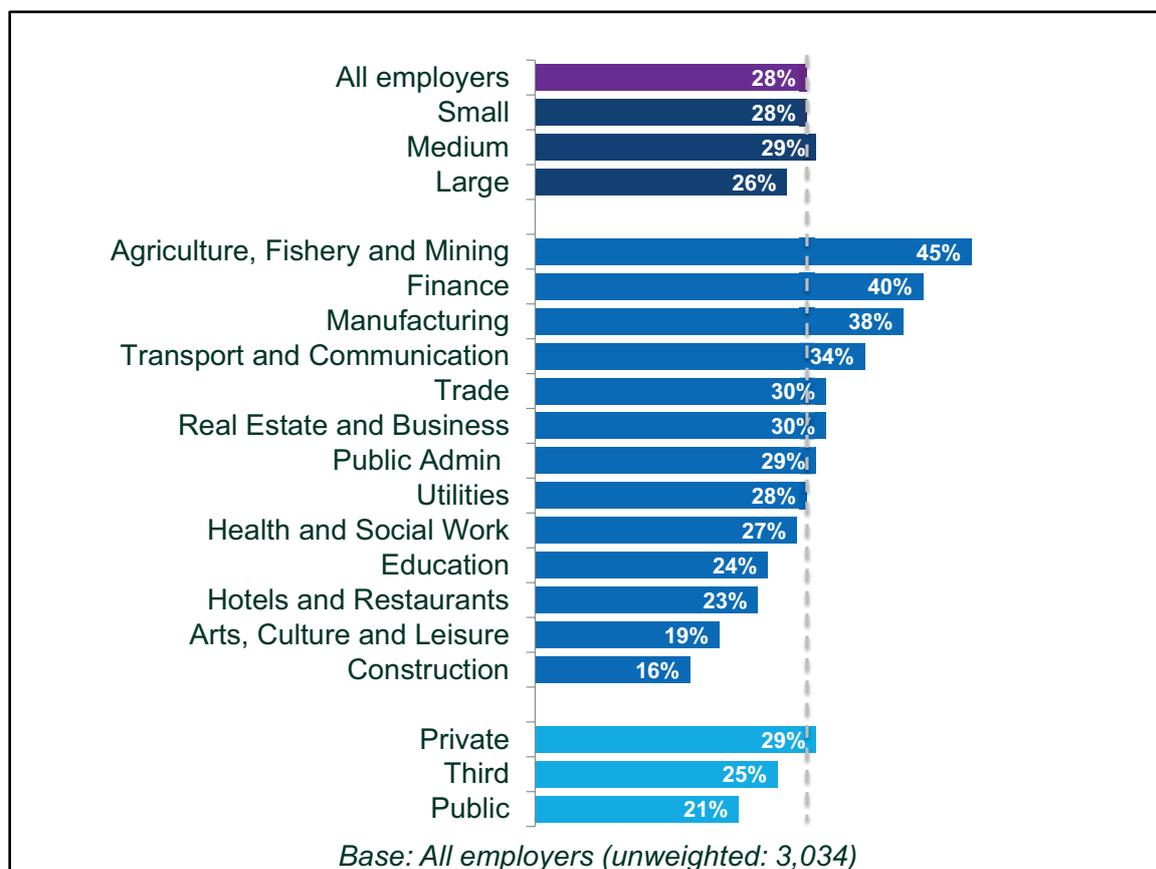
Three in five employers (58%) that had made an employee redundant while on maternity leave and offered them an alternative position said they offered the vacancy ahead of other workers in all cases. A further 8% offered the vacancy ahead of other workers in some cases. However, around three in 10 employers (31%) stated that they did not offer this or these positions to women on maternity leave ahead of other employees as legislation requires them to do.

10.5 Enhanced protection

Over one in four employers (28%) felt that enhanced protection from redundancy during OML was unreasonable. This was more likely to be reported by:

- employers in the Agriculture, Fishery and Mining (45%) and Manufacturing (38%) sectors;
- workplaces where less than 10% of the workforce are female (40%);
- workplaces without trade union or staff association representation (30%); and
- private sector employers (29%) compared with public sector employers (21%).

Figure 10.3: Employers who think enhanced protection from redundancy during OML is unreasonable



Around one in eight employers (13%) found it difficult to facilitate enhanced protection from redundancy during OML. This was particularly common for single site organisations (19%, compared with 8% on establishments that were part of a larger organisation). Employers based in the North East of England (26%) and those working in the Manufacturing (24%) sectors were also more likely to report finding this difficult to facilitate within their workplace.

Employers found it difficult to facilitate enhanced protection for those on OML because they considered it unfair and wanted to treat everybody equally (77%). Other reasons included businesses lacking the resources to deal with the issue of enhanced protection (7%) and it being disruptive to administrative or operational aspects of the business (5%).

Follow-up interviews found that employers had different levels of awareness and understanding of what enhanced protection from redundancy meant and what employers had to do in order to be compliant. Some felt they simply had a duty to treat those on maternity leave the same as other employees, while others assumed they had to exclude those on maternity leave from the selection process entirely.

Some employers reported their uncertainty around redundancy and dismissal legislation for pregnant women and those on maternity leave caused them to be extremely cautious with these employees. One employer, for instance, reported choosing not to dismiss somebody they otherwise would have because they feared accusations of discrimination.

'You can't make them redundant. I just wouldn't go there, unless it was a critical situation. The finance person – we would have fired her, her attendance was very poor. We planned to have that discussion, and just before this she told us she was pregnant. So we parked that conversation.'

— 50-99 employees, private sector, Real Estate and Business

There were a small number of employers who were aware enhanced protection did not entirely prevent employers from making women on maternity leave redundant.

The follow-up interviews revealed cases where employers felt enhanced protection from redundancy for those on maternity leave was unfair to other employees, as shown in the following example.

Case study: Example of employer who disagrees with enhanced protection, 25-49 employees, third sector, Public Administration

Kevin is the Chief Executive of a small charity based in Scotland. They have had several pregnant employees in the last three years, including a couple of mothers having their second child. *Kevin* said the charity find organising cover and the uncertainty around return dates hard to manage but that they are generally positive and try to be supportive, for example relaxing start and end times or allowing home working.

Kevin is currently having to restructure the organisation and plans to make redundancies. He has one employee on maternity leave who is due to return shortly and he is 'desperate' for her to return as she is a 'high performer'. However, he is unsure if he has to treat her differently to another pregnant employee.

'I don't understand the legal technicalities; I would need to get a lawyer to check that. I wouldn't discriminate and maybe that isn't good for the pregnant woman. I look at the job and its requirements and all are equally enabled to go for the job regardless. I've known in other organisations the person on maternity leave gets an ace card – everything happens and they step back in like nothing happened and that's not right, that they decided to start a family so their job is protected.'

Kevin sees the current legislation as working well for the employee but he doesn't believe enhanced protection is fair to other staff. He thinks it penalises those who have decided to commit to work while it benefits those who have shifted to a family focus.

Employers rarely reported they would intentionally select a woman who was on maternity leave for redundancy. However, one employer suggested that all other things being equal they would make somebody on maternity leave redundant because they would want to retain somebody who was available to work.

'Would it have an impact on our choice? It's difficult to say no. If we have two people who are just as good as each other and one is going to be working for us consistently for three years and the other is going to be buzzing off to have a baby, then I'm afraid with the best will in the world I'm going to be taking the one who is going to be working for us, provided that they're both equally competent.'

— 10-24 employees, private sector, Real Estate and Business

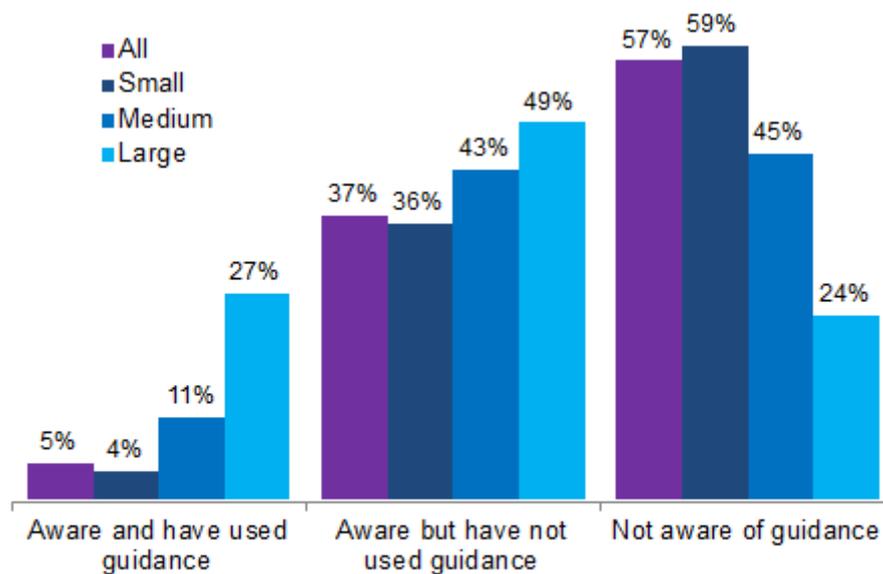
10.6 Awareness of ACAS guidance

5% of all employers had used the ACAS '*Managing redundancy for pregnant workers and those on maternity leave*' guidance¹⁷ in the last three years. A further two in five (37%) were aware of the guidance but had not used it. The majority of employers (57%) were not aware of the guidance, and this increased to two-thirds among employers in the Trade and Hotels and Restaurants sectors (67% and 66% respectively).

As Figure 10.4 shows, awareness of this ACAS guidance increased with employer size. More than one in four large employers (27%) were aware of the ACAS guidance and had used it, compared to 4% of small employers. The Public Administration (10%) and Education (11%) sectors were most likely to have used the ACAS guidance.

¹⁷ Acas and EHRC (2012) *Managing redundancy for pregnant workers and those on maternity leave*, Available: <http://www.acas.org.uk/media/pdf/r/f/Managing-redundancy-for-pregnant-employees-or-those-on-maternity-leave-accessible-version.pdf>

Figure 10.4: Proportion aware of ACAS guidance ‘Managing redundancy for pregnant workers and those on maternity leave’ by employer size



*Base: All employers (unweighted: 3,034)
Does not sum to 100% as 'Don't know' and 'Refused' not shown*

10.7 Dismissals

A low share (1%) of employers who had managed a pregnant woman in the last three years had dismissed an employee that was pregnant or on maternity leave during that period. This was more likely to be reported by large employers (5%).

Conclusions

The Pregnancy and maternity-related discrimination and disadvantage research provides an evidence base on the current scale and nature of possible discriminatory practice experienced by pregnant women at work and new mothers on their return to work. It also explores employer attitudes, approaches towards managing pregnancy and maternity in the workplace.

This chapter covers a summary of the key findings about the experience of employers when managing pregnancy and maternity in their workforce. It also highlights relevant comparable findings from the survey of mothers published in a separate report.¹⁸ Key areas explored in the conclusion section are as follows:

- Employer attitudes towards managing pregnancy and maternity in the workplace;
- Managing risks;
- Managing uncertainty about return to work;
- Flexible working;
- Breastfeeding;
- Complaints;
- Recruitment and;
- Redundancies and dismissals.

Employer attitudes towards managing pregnancy and maternity in the workplace

The majority of employers (84%) felt it was in their interests to support pregnant women and those on maternity leave. The main reason for this was improving staff retention.

Despite this, half of employers (51%) considered at least one of the statutory rights

¹⁸ Adams, L., Winterbotham, M. et. al (2016) *Pregnancy and Maternity-Related Discrimination and Disadvantage: Experiences of Mothers*, EHRC and Department for Business, Innovation and Skills. Available: <https://www.gov.uk/government/publications/pregnancy-and-maternity-discrimination-and-disadvantage-in-the-workplace>

relating to pregnancy and maternity unreasonable. The statutory rights employers were most likely to consider unreasonable were enhanced protection from redundancy during OML, accumulation of annual leave during maternity leave and AML. In addition, around a quarter of all employers (27%) felt that pregnancy puts an unreasonable cost burden on the workplace (although this falls to 20% for those employers with experience of a recent pregnancy). Employers more commonly had this concern about an unreasonable cost burden if they had no recent experience of a pregnancy in the workplace (32%) compared to those that have experienced a pregnancy in the last three years (20%).

Most employers said that it was easy to facilitate each individual statutory right relating to pregnancy and maternity. However, just one in four employers found it easy to facilitate all of the statutory rights.

There is evidence to suggest that employers may not be aware of the extent to which their staff are exposed to negative attitudes from other colleagues around pregnancy and return after maternity leave. Although only a small proportion of employers reported difficulties managing the negative attitudes of other employees (5%), evidence from the mothers' survey suggests these issues are more prevalent:

- One in five mothers (20%) said they experienced harassment or negative comments related to pregnancy or flexible working from their employer and/or colleagues; if scaled up to the general population this could mean as many as 100,000 mothers a year;
- One in 12 mothers (8%) said they were treated with less respect by their line manager and one in eight mothers (12%) felt treated less favourably in some other way.

Managing risks

Nearly all employers understood that they had a legal responsibility to conduct general health and safety risk assessments and that part of this included ensuring a safe working environment for pregnant women and mothers, and overall 98% reported undertaking a general health and safety risk assessment for the activities of their business. There were differences between employers in how they managed risk assessments for pregnant employees: some felt that after a woman had told them she was pregnant they should carry out a specific risk assessment, regularly reviewed as the pregnancy progressed; others felt general risk assessments covering all employees were sufficient.

Among workplaces conducting risk assessments, two in three of those with a pregnant employee or woman returner in the last three years had identified risks to pregnant women or new mothers. Around half of employers (53%) with a recent pregnancy in their workplace had changed the duties of pregnant women as a result of risks they had identified.

The mothers' survey shows that most mothers (62%) reported that their employer initiated a discussion about potential risks arising from their pregnancy, and half of mothers (49%) said their employer informed them of risks to them or their baby.

Despite reporting this:

- One in five mothers (19%) identified risks their employer did not;
- One in five (19%) of mothers who had been made aware of risks felt that some but not all were dealt with;
- 4% of mothers left their employers as a result of risks not being tackled.

Hence, while most employers believed they were proactive in identifying risks for pregnant employees and in managing these risks, mothers themselves were often less positive.

Managing uncertainty about return to work

25% of employers said the uncertainty around whether those on maternity leave will return to work was difficult for them to manage.

In some cases, the difficulties employers experienced in managing maternity leave was compounded by their uncertainty about how often to contact women on maternity leave. It was relatively common for employers to be concerned that contact could be perceived as pressuring women to return to work sooner (29% of employers felt it could be interpreted in this way). However, results from the mothers survey showed that mothers were far more likely to report too little contact with their employers while on maternity leave (26%) than too much (4%).

The follow-up interviews with mothers suggested that, although mothers were concerned about being asked to commit to a return date before they were ready, they welcomed communication from their employer about developments in the workplace. This contact helped prevent them feeling isolated and made their return to work easier. The follow-up interviews with mothers found communication is most effective when a plan for the nature and frequency of communication has been agreed before the start of maternity leave.

Flexible working

Most employers with a recent pregnancy felt it was easy to facilitate the impact of part-time or flexible working during pregnancy or on return from maternity leave (59%, compared with 17% finding this difficult), and generally employers supported flexible working requests from pregnant women or those on maternity leave. Overall, 58% of employers with a recent pregnancy had received requests for flexible working and the vast majority of these employers (84%) had granted all these requests.

Around one in seven employers (14%) had turned down at least one request for flexible working from a pregnant women or mother returning from maternity leave. This was usually because they did not feel it fitted in with operational requirements or because they did not feel it was possible to reorganise work among other staff.

However, in the follow-up interviews flexible working was not necessarily something that employers actively promoted. This could leave employees unaware of what was

available or uncertain whether the employer was willing to engage in a discussion about working flexibly. The research with mothers indicated some mothers found it difficult to discuss flexible working with their employer and 38% of mothers did not request a type of flexible working they wanted, typically because they did not think it would be approved or because they were worried their employer would view their request negatively.

Breastfeeding

There was some uncertainty among employers about how to accommodate requests to express milk or breastfeed: almost one in four (24%) were unclear what they would need to do to accommodate requests to express milk or breastfeed. Further, more than two in five employers (42%) did not provide facilities for mothers to express milk. Relatively few employers had received any requests related to breastfeeding or expressing milk in the past three years (8%).

Findings from the mothers' survey indicate that some mothers (6%-albeit a minority) were influenced to stop breastfeeding because of their return to work, and some mothers that did continue breastfeeding felt there was a lack of support from their employer. One in five mothers (19%) that stopped breastfeeding (whether before or after a return from maternity leave) said returning to work influenced their decision, and just over half of these mothers (54%) would have liked to breastfeed longer. One in five mothers who continued breastfeeding once they had returned to work (21%) did not feel their employer willingly supported their needs as a breastfeeding mother.

Complaints

Overall, 5% of employers with experience in the last three years of a pregnant employee at their workplace or a mother returning following maternity leave had received either a formal complaint relating to pregnancy or maternity discrimination (1%) and/or had informal discussions with women about perceived unfair treatment (4%).

Although the employer survey suggests complaints or discussions about unfair treatment are rare, findings from the mothers survey shows that over one in four (28%) of those who said they experienced any type of negative or possibly discriminatory experience raised this. Less than one in five mothers (18%) who felt they had experienced negative treatment raised this with their manager. This suggests that many instances of negative treatment go unreported. Broadly speaking, the reasons suggested by employers in the employers' interviews as to why women may be reluctant to make complaints or raise concerns matches the barriers mentioned here.

Barriers to raising complaints from the follow-up interviews included: fear of creating bad feeling with their colleagues or employer; fear of adverse consequences; stress and tiredness; a belief that nothing would change; lack of information about rights; lack of clear complaints procedures; a sense of guilt; and the financial cost of pursuing a complaint.

Recruitment

One in four (25%) employers believe that it is reasonable to ask women about their plans to have children and seven in 10 (70%) felt that women should declare upfront during recruitment if they are pregnant. Employers generally wanted to know this information because of the perceived burden of employing staff that were likely to have a significant period of leave shortly after recruitment, indicating that some employers were likely to use this information to aid decision-making on whether to hire a candidate. Evidence from the follow-up interviews suggested that some employers openly admitted they would discriminate against a pregnant candidate, and said they would like to be able to ask whether candidates are pregnant at interview so they could decide not to recruit them.

Findings from the mothers' survey showed a small proportion of mothers (3%) attended job interviews when they were pregnant.

The main reasons reported by mothers that were not in work nor were they looking for work were that they wanted to look after their children themselves (75%), they could not find a job that pays enough to pay for childcare (52%), they could not find suitable childcare (45%), mothers could not find a job with the right hours (36%) or they could not find a job in a suitable location (24%).

The main reasons reported in the follow-up interviews by mothers who didn't look for work while pregnant were: a perceived lack of willingness of employers to employ pregnant women; a feeling that it would be unfair to expect employers to employ pregnant women; and a fear of the impact on maternity benefits.

Mothers who felt well supported by their employer during pregnancy were more likely to return after maternity leave.

Redundancies and dismissals

Among employers who had managed a pregnant worker in the last three years, 2% had made at least one woman who was pregnant or on maternity leave redundant and 1% had dismissed at least one woman who was pregnant or on maternity leave.

Concerning redundancies, half of employers (51%) did not offer a suitable alternative position to all or some of these employees, and where employers had offered alternative positions, three in 10 (31%) had not offered them alternative positions ahead of other employees as required by legislation.

The mothers' survey shows that a relatively low proportion of mothers was dismissed (1%) or made compulsorily redundant (1%). A higher proportion of mothers felt they were treated so poorly they had to leave their job (9%).

Findings from the follow-up interviews found that employers had different levels of awareness and understanding of enhanced protection from redundancy and what employers needed to do in order to be compliant. As a result of this uncertainty some employers were extremely cautious in taking any action relating to redundancy for women who are pregnant or on maternity leave.

Technical Appendix - Methodology

Employers' survey: overview

This overview briefly describes the methodology for the research with employers. More comprehensive technical reports have been produced for both surveys with mothers and employers and these will be made available on the UK data archive,

Survey interviews were conducted by telephone. A site-based rather than an organisational-level sample was used. This approach allowed information to be collected about what actually happens 'on the ground' rather than reflecting Head Office policy.

Sampling

A sample of 13,988 workplaces across Great Britain was drawn from the Inter-Departmental Business Register (IDBR) maintained by the Office for National Statistics (ONS). In order to maximise sample efficiency, in terms of identifying workplaces that had managed pregnant women or new mothers in the last three years, workplaces with fewer than five staff were not sampled.

The sample design aimed to achieve representative coverage across Great Britain, and robust coverage of different sized workplaces and all sectors.

Survey methodology

Setting sampling targets

The overall target sample size was 3,000 interviews.

The business population is heavily skewed towards smaller establishments and, to a lesser extent, towards certain sectors. A pure random sample would have led to a small number of interviews in the larger size bands and in some sectors (reducing the scope for separate analysis of these sub-groups). On this basis, a stratified sample approach was used with oversampling in certain strata.

A modified probability proportional to size sample was drawn. Target interviews were allocated to England, Wales and Scotland in proportion to the number of workplaces in each country (86% to England, 9% to Scotland and 5% to Wales). Then within each nation:

- Half the total was allocated evenly to each sector, half in proportion to the number of units in each sector. This determines the number of interviews by sector within nation.
- Within sector half the total was allocated evenly by size band, half in proportion to employment within that sector within nation.

The sector categories used for the sampling were as follows (see Table 12.6 for more details of these):

- Agriculture, Fishery and Mining
- Manufacturing
- Utilities
- Construction
- Trade (Wholesale and Retail)
- Hotels and Restaurants
- Transport and Communications
- Finance
- Real Estate and Business
- Public Administration
- Health and Social Work
- Arts, Culture and Leisure.

The size bands used for the sampling were:

- 5 to 9 employees at the site
- 10 to 24 employees
- 25 to 49 employees
- 50 to 99 employees
- 100 to 249 employees
- 250+ employees.

The aim of this sampling approach was to strike a balance between ensuring the potential to produce both unit-based and employee-based measures for all size bands while at the same time avoiding too great a diversion from a proportionate sampling approach (and hence trying to limit the size of the design factor).

Pre-screening exercise

Prior to the survey interview, a pre-screening exercise was carried out by telephone to screen for eligibility (to check if employer had at least five employees at the site) and to identify the most suitable respondent to send details about the research. Where a respondent was identified during this pre-screening phase a letter was addressed to the named respondent at the site, while those who were not identified were sent a letter addressed to the 'HR/General Manager'.

The following table shows outcomes from the pre-screening phase and resulting eligible sample. A similar exercise was undertaken for the Fourth Work-Life Balance Employer Survey and as Table 12.1 shows, a similar proportion of in-scope sample was available following screening.

Table 12.1: Employer survey pre-screening outcomes

	WLB4		Pregnancy/Maternity	
		%		%
Starting sample	8,533		21,051	
No telephone number after look-up and not issued	417	4.9	2,201	10.5
Out of scope				
Less than five employees	644	7.5	519	2.5
Closed down	58	0.7	95	0.5
Unobtainable or refused or duplicate or other ineligible	1,729	20.3	4,672	22.2
TOTAL	2,848	33.4	7,394	35.1
In scope of fieldwork (i.e. in scope after pre-screening)	5,685	66.6	13,657	65.9

Telephone survey

A total of 3,034 computer-assisted telephone interviews (CATI) were completed between 1 October and 20 April 2015. On average interviews lasted 30 minutes. Every attempt was made to establish contact; each record was called at least 10

times or until a definite outcome was achieved.

Call outcomes are shown below:

Table 12.2: Employers' survey fieldwork call outcomes

Outcome	Number of sample records	% of sample records	% of eligible sample (excluding ineligible and number unobtainable)
Total in scope of fieldwork	13,657		
Total available excluding ineligible and number unobtainable	12,967		
Complete interviews	3,034	22	23
Refused (including breakdown during interview)	2,940	22	23
Not available during fieldwork	2,783	20	21
Number unobtainable	343	3	3
Ineligible once screened over the phone	347	3	3
No answer/engaged for 10 calls	4,210	31	32

Weighting

As the sample of establishments was chosen with unequal probabilities, weighting was required to ensure that the survey results represented all employers in Great Britain with five or more employees; a population of 809,372 establishments (or units).

The employer survey was weighted to calibrate the sample to employer population figures by nation, employer size and sector.

Owing to the sample selection and weighting criteria being the same (i.e. size by Standard Industrial Classification, or SIC grouping), selection and response bias were corrected in one stage.

In addition to a unit weight, an additional employment weight was also calculated. This was done on the same basis as the unit weight (i.e. within nation, employer size and sector), and grossed up results to the full population of employment within establishments with five or more employees (a total of 23.8m employees).

Qualitative follow-up

Following the telephone survey, face-to-face interviews were conducted with 49 employers. In addition, two focus groups were conducted:

- Group 1: Employers in the Health and Social Work and Arts, Culture and Leisure sectors
- Group 2: Employers who had a limited experience of pregnancy and maternity in the workplace (no pregnancies within the workplace in the last three years).

Recruitment and sampling

The sample for the interviews came from employers who agreed to be re-contacted during mainstage fieldwork. The majority of employers (66%) that took part in the telephone survey agreed to take part in this next stage.

The sample was structured by employer size and employers' experience/attitudes towards managing pregnancy and maternity to ensure a range of employers. The following size bands were used:

- Small (5-49 employees)
- Medium (25-249 employees)
- Large (250+ employees).

The type of experience was defined using responses from the survey as shown in Table 12.3.

Table 12.3: Definition of employer experience/attitude used for recruitment of qualitative interviews

Statement	Positive	Mixed views	Negative
Supporting pregnant women and those on maternity leave is in the interests of this organisation	Agree/ strongly agreed to this statement in the survey	Agree/ strongly agreed to this statement in the survey	Neither agree nor disagree/ disagree/ strongly disagreed to this statement in the survey
Pregnant women are as committed to work as other members of the team	Agree/ strongly agreed	Expressed negative or neutral views to one or more of the statements	
Some women at this workplace have abused their rights during pregnancy	Disagree/ strongly disagreed		
Women should work for at least a year before deciding to have children	Disagree/ strongly disagreed		
Pregnancy puts an unreasonable cost burden on this workplace	Disagree/ strongly disagreed		

Face-to-face interviews

Recruitment for the face-to-face follow-up interviews was conducted over the phone, which established whether the respondent was happy to take part and then involved arranging a time and location for an interviewer to conduct the interview.

Interviews were conducted between 16 March 2015 and 2 June 2015. Interviewers covered all areas of England, Scotland and Wales.

A topic guide was designed in collaboration with BIS and EHRC and was designed to allow employers to expand on their experiences of managing pregnancy and maternity they had described in the survey. The topic guide was piloted over the first five interviews. Some minor amendments were made to improve to flow and reduce length to improve respondents' experience.

A total of 49 interviews were conducted. Table 12.4 shows a breakdown of the interviews achieved according to the key groups detailed above.

Table 12.4: Number of interviews achieved by type of experience and size

Employer size	Positive experiences or attitudes	Mixed experiences or attitudes	Negative experiences or attitudes	Total
Small	4	9	4	17
Medium	4	10	3	17
Large	3	8	4	15
TOTAL	11	27	11	49

The distribution of follow-up interviews by industry sector is provided in Table 12.5.

Table 12.5: Number of interviews achieved by sector

Sector	Number of interviews completed
Manufacturing	4
Utilities	2
Construction	2
Trade	4
Transport and Communications	5

Hotels and Restaurants	4
Finance	3
Real Estate and Business	6
Public Administration	3
Education	3
Health and Social Work	7
Arts, Culture and Leisure	6

Focus groups

Two focus groups were run:

- Group one: the Health and Social Work and the Arts, Culture and Leisure sectors, who were more likely to demonstrate negative attitudes towards pregnancy and maternity in the workplace in the interim findings.
- Group two: employers with little experience of pregnancy and maternity in the workplace (i.e. those with no pregnancies in the workplace in the last three years) focusing on recruitment issues.

Focus groups were held 12-13 May 2015 at a viewing facility and moderated by IFF researchers.

Three employers attended Focus Group one and five attended Focus Group two.

Reporting conventions

Results are presented on weighted data, though charts show the unweighted base on which they are based.

In charts and tables, we use ‘^’ to indicate findings of less than 0.5% and ‘-’ to show findings of 0%.

Where differences are referred to in the report, these are statistically significant at the 95% confidence level. Significant differences are only reported where base sizes are greater than 50.

In reference to the size of the employer, for the purposes of this report, ‘size’ relates

to the number of staff employed at the workplace, rather than the number of people employed by the organisation as a whole. Small, medium and large employers are defined as follows:

- Small employers: those with 5-49 employees at the workplace
- Medium employers: 50-249 members of staff
- Large employers: 250 or more members of staff.

The report also refers to employers from the private, public or third sector, as follows:

- Private sector: an organisation seeking to make a profit
- Public sector: a local government or central government funded body, such as: a school; the Civil Service; part of the NHS; a college or university; the Armed Services; an Executive Agency; or other non-departmental public bodies
- Third sector: a charity or voluntary sector organisation or a social enterprise.

Table 12.6 provides a summary of the types of businesses in each sector.

Table 12.6: Employment sectors

Employment sectors - Standard Industrial Classification (SIC)	Examples of types of businesses in this sector
Agriculture, Fishery, Mining	Forestry and logging; extraction of crude petroleum and natural gas; fishing
Manufacturing	Manufacture of food products; manufacture of textiles
Utilities	Waste collection, treatment and disposal activities; electricity/gas supply
Construction	Construction of buildings; civil engineering; electrical/plumbing activities
Trade	Retail sale of food, beverages and tobacco in specialised stores; wholesale and retail trade and repair of motor vehicles and motorcycles
Transport and Communication	Passenger or freight rail transport; passenger air transport; postal and courier activities; telecommunications; publishing of books, periodicals

	and other publishing activities
Hotels and Restaurants	Hotels and similar accommodation; restaurants and mobile food service activities
Finance	Central banking; trusts, funds and similar financial entities; insurance; pension funding
Real Estate and Business	Buying and selling of own real estate; legal and accounting activities; architectural and engineering activities; scientific research and development; advertising and market research
Public Administration	Regulation of the activities of providing health care, education, cultural services and other social services; provision of services to the community as a whole
Education	Primary education; secondary education; higher education
Health and Social Work	Hospital activities; residential nursing care activities; social work activities
Arts, Culture and Leisure	Performing arts; library and archive activities; operation of sports facilities

Reporting differences by sub-group

Within the report, differences by sub-group such as size, sector, and whether the employer is part of a larger organisation or not are often discussed. Where it is stated, for example, that ‘Employers in the Finance sector were twice as likely as average to report resentment and difficulties around workload management of the wider team’ this simply means the figure among Finance sector employers was twice the ‘all employer’ figure.

Where the report states that particular sub-groups are the most or the least likely to have a particular view or carry out a particular practice (for example, ‘Those least likely to consider this right reasonable were: In the Agriculture, Fishery and Mining (73%)...’) then the result in this sector is significantly different (here lower) to the figure among all other employers (i.e. excluding Agriculture, Fishery and Mining sector employers). The test applied throughout is a t-test at the 95% confidence level; this has been applied to the effective sample size base, which takes into account the design effect.

Interpreting the report

Interviews took place between October 2014 and April 2015. Employers were asked to consider responses to certain questions with reference to the last three years (for example, whether they had had any pregnant employees, or had dismissed any employees). Consequently, responses could relate to employer experiences between September 2011 and March 2015. This was a period of economic recovery following the recession that lasted from the second quarter of 2008 to the third quarter of 2009.

Multivariate analysis

Factor analysis was run on the data set. Four interesting underlying dimensions – or factors – emerged from this analysis:

- Difficulties resourcing and managing maternity pay and leave.
- Difficulties managing absence, uncertainty and flexibility.
- Concerns around resentment and workload management of wider team.
- Negative attitudes around the commitment and value of pregnant employees and new mothers.

The four tables below (Tables 12.7 to 12.10) show how response patterns to particular questionnaire statements were grouped under each of these four factors.

Table 12.7: Factor: Difficulties resourcing and managing maternity pay and leave

DIFFICULTY FACILITATING - Maternity pay (weeks 1-39)
DIFFICULTY FACILITATING - Ordinary Maternity Leave (weeks 1-26)
DIFFICULTY MANAGING - Costs associated with Statutory Maternity Pay
DIFFICULTY FACILITATING - Additional Maternity Leave (weeks 27-52)
DIFFICULTY MANAGING - Arranging and managing maternity cover
DIFFICULTY FACILITATING - Accumulation of annual leave during maternity leave
DIFFICULTY MANAGING - Managing workloads for other members of the team
DIFFICULTY FACILITATING - Paid time off to attend appointments associated with pregnancy
AGREEMENT WITH - Pregnancy puts an unreasonable cost burden on this workplace
DIFFICULTY FACILITATING - Right to request flexible working

Table 12.8: Factor: Difficulties managing absence, uncertainty and flexibility

DIFFICULTY MANAGING - Levels of sickness absence for those returning from maternity leave
DIFFICULTY MANAGING - Sickness absences during pregnancy
DIFFICULTY MANAGING - Communication with women while they are on maternity leave
DIFFICULTY MANAGING - The uncertainty of whether those on maternity leave will return to work
DIFFICULTY MANAGING - The impact of part-time or flexible working during pregnancy or on return from maternity leave
DIFFICULTY MANAGING - Managing the negative attitudes of other employees

Table 12.9: Factor: Concerns around resentment and workload management of wider team

DIFFICULTY MANAGING - Arranging and managing maternity cover
DIFFICULTY MANAGING - Managing workloads for other members of the team
EASY TO FACILITATE - Paid time off to attend appointments associated with pregnancy

AGREEMENT WITH - There is sometimes resentment among the team towards women who are pregnant or on maternity leave
AGREE REASONABLE - Paid time off to attend appointments associated with pregnancy
AGREEMENT WITH - Some women at this workplace have abused their rights during pregnancy

Table 12.10 Factor: Negative attitudes around the commitment and value of pregnant employees and new mothers

DISAGREEMENT WITH - Women returning to work after maternity leave are just as committed to work as other members of the team
DISAGREEMENT WITH - Pregnant women are as committed to work as other members of the team
DISAGREEMENT WITH - Supporting pregnant women and those on maternity leave is in the interests of this organisation
AGREEMENT WITH - Pregnant women and new mothers are less interested in career progression and promotion than other employees
AGREEMENT WITH - Women within this establishment who have had more than one pregnancy can be a burden to their team

The relationship of each employer with these four factors was then turned into a binary (Yes/No) outcome variable. These were then used as dependent variables (DVs) in further multivariate analysis.

A stepwise Ordinal Logistic Analysis was performed on the DV using the GOLDmineR⁵ algorithm. The optimal set of drivers was selected using their unmerged original categories, except in instances where there were empty categories where a manual merge was performed. An assessment of their contribution to the association with the DV was used using their unique contribution to L^2 ; the likelihood-ratio chi-squared statistic. An associated p-value was calculated from this and rescaled using the transformation $-\text{Log}_{10}(\text{p-value})$ to give an indication of the measure of importance/unique contribution of each predictor. This was rescaled to sum to 100% across predictors selected as having a $p < 0.05$ impact on L^2 .

Further to this, the effect sizes for each of the categories of the retained predictors relative to the average category are presented in the form of a higher or lower than average odds of a 'yes'. Odds which are significantly different from one (equivalent to average odds for the predictor) are highlighted.

This analysis can be interpreted as assessing the effects of the predictor on the DV while holding all other predictors equal and, unlike the univariate analysis, takes

account of correlations between the predictors.

The purpose of the analysis was to understand the extent to which particular response patterns among employers could be predicted by a number of employer characteristics:

- Employer size
- Whether employer is single or multi-site
- Industry sector
- Whether or not employer recognises a trade union or staff association
- Proportion of the workforce that is female
- Region/country
- Job title of respondent to survey.

These were all treated as categorical predictors, with the effect of each category considered in terms of its causal relationship with each of the four DVs. Both methods prevent questions with more categories from dominating the analysis, which can be an issue with other machine learning algorithms such as the Random Forests R package.

The output of the multivariate analysis is shown in Tables 12.11 to 12.18 below.

Table 12.11: Difficulties resourcing and managing maternity pay and leave dependent variable: multivariate regression outcome

Employer characteristic independent variables	P-value multivariate analysis	Importance in multivariate binary regression
Single or multi	0.000000000043	49%
Sector	0.000043	20%
Establishment size detail	0.00016	18%
% of female employees	0.0016	13%

Table 12.12: Difficulties resourcing and managing maternity pay and leave dependent variable: odds for each category of importance of being different from average category outcome

Employer characteristic independent variables	
Single or multi	
Single independent establishment	1.37*
Part of a larger organisation	0.73*
Sector	
Agriculture, Fishery and Mining	0.66
Manufacturing	1.16
Utilities	1.71
Construction	0.55
Trade	0.67*
Hotels and Restaurants	0.74
Transport and Communication	0.89
Finance	1.34
Real Estate and Business	0.96
Public Admin and Defence	0.86
Education	1.53*
Health and Social Work	1.46*
Other Community	1.28

Establishment size detail	
5-9	1.63*
10-24	1.22*
25-49	0.84
50-99	1.1
100-249	0.98 1
250+	0.56*
% of female employees	
1-9%/None	0.38*
10-25%	1.17
26-49%	0.85
50%	1.04
51-74%	1.28*
75-99%	1.48*
All are female	1.34

*=significantly different from 1

**Table 12.13: Difficulties managing absence, uncertainty and flexibility
dependent variable: multivariate regression outcome**

Employer characteristic independent variables	P-value multivariate analysis	Importance in multivariate binary regression
% of female employees	0.00000085	44%
Establishment size detail	0.00021	27%
Union recognition: Staff association	0.004	18%
Union recognition: Trade union	0.031	11%

**Table 12.14: Difficulties managing absence, uncertainty and flexibility
dependent variable: odds for each category of importance of being different
from average category outcome**

Employer characteristic independent variables	Odds for each category of being different from average category outcome
% of female employees	
1-9%/None	0.42*
10-25%	1
26-49%	0.99
50%	1.09
51-74%	0.88
75-99%	1.64*
All are female	1.53*
Establishment size detail	

5-9	1.07
10-24	1.08
25-49	0.61*
50-99	1.18
100-249	1.11
250+	1.09
Union recognition: Staff association	
No	1.50*
Yes	0.67*
Union recognition: Trade union	
No	1.13*
Yes	0.89*

*=significantly different from 1

Table 12.15: Concerns around resentment and workload management of wider team dependent variable: multivariate regression outcome

Employer characteristic independent variables	P-value multivariate analysis	Importance in multivariate binary regression
Establishment size detail	0.0000000081	54%
Sector	0.000027	31%
% of female employees	0.0055	15%

Table 12.16: Concerns around resentment and workload management of wider team dependent variable: odds for each category of importance of being different from average category outcome

Employer characteristic independent variables	Odds for each category of being different from average category outcome
Establishment size detail	
5-9	0.46*
10-24	0.83
25-49	0.91
50-99	0.99
100-249	1.45*
250+	1.98*
Sector	
Agriculture, Fishery and Mining	1.04
Manufacturing	0.92
Utilities	0.66
Construction	0.67
Trade	0.65*
Hotels and Restaurants	0.9
Transport and Communication	0.72
Finance	2.17*

Real Estate and Business	1.19
Public Admin and Defence	2.1*
Education	0.79
Health and Social Work	1.2
Other Community	1.09
% of female employees	
1-9%/None	0.76
10-25%	1.27
26-49%	1.37*
50%	0.87
51-74%	1.05
75-99%	1.27*
All are female	0.66*

*=significantly different from 1

Table 12.17: Negative attitudes around the commitment and value of pregnant employees and new mothers dependent variable: multivariate regression outcome

Employer characteristic independent variables	P-value multivariate analysis	Importance in multivariate binary regression
Union recognition: Trade union	0.0000073	25%
Sector	0.000061	21%

Single or multi	0.00016	19%
% of female employees	0.00083	15%
Job title	0.0079	10%
Union recognition: Staff association	0.011	10%

Table 12.18: Negative attitudes around the commitment and value of pregnant employees and new mothers dependent variable: odds for each category of importance of being different from average category outcome

Employer characteristic independent variables	Odds for each category of being different from average category outcome
Union recognition: Trade union	
No	1.33*
Yes	0.75*
Sector	
Agriculture, Fishery and Mining	1.19
Manufacturing	1.11
Utilities	1.22
Construction	0.4*
Trade	1.03
Hotels and Restaurants	1.34
Transport and Communication	0.41*

Finance	1.77*
Real Estate and Business	0.82
Public Admin and Defence	1.37
Education	1.04
Health and Social Work	1.17
Other Community	1.12
Single or multi	
Single independent establishment	1.20*
Part of a larger organisation	0.83*
% of female employees	
1-9%/None	0.91
10-25%	1
26-49%	0.93
50%	1.45*
51-74%	1.33*
75-99%	0.91
All are female	0.67
Job title	
HR/Personnel	0.84*
Other	1.2*

Union recognition: Staff association	
No	1.43*
Yes	0.70*

*=significantly different from 1

Telephone questionnaire

Pregnancy and Maternity Discrimination – Employer Survey

J5375

Telephone

Final Version

Note on questionnaire:

Questionnaire numbering in square brackets '[]' refer to comparable questions on the 2005 survey.

Screener

ASK TELEPHONIST

S1 Good morning / afternoon. My name is NAME and I'm calling from IFF Research. Please can I speak to...

[IF NAMED: [NAMED RESPONDENT]?]

[IF UNNAMED: the most senior person AT THIS SITE with responsibility for human resource and personnel issues (such as recruitment), or for general management issues. For example your HR or personnel director / manager, or a site manager?]

ADD IF NECESSARY: [IF NAMED: They / IF SITE MANAGER SENT LETTER: The site manager / IF HR MANAGER SENT LETTER: The HR manager] should have received a letter providing some more background to the study from Bill Wells, Deputy Director for Labour Market Analysis at BIS and Karen Jochelson, Director for Economy and Employment programme at EHRC.

Transferred	1	CONTINUE
Hard appointment	2	MAKE APPOINTMENT RECORD NAME AND JOB TITLE IF GATEKEEPER WILLING TO GIVE (WILL OVERWRITE SAMPLE)
Soft Appointment	3	
Refusal – specify	4	CLOSE
Refusal – company policy	5	
Refusal – Taken part in recent survey	6	
Nobody at site able to answer questions	7	
Not available in deadline	8	
Fax Line	9	
No reply / Answer phone	10	
Residential Number	11	
Dead line	12	
Company closed	13	
Company has less than 5 workers	14	
Show reassurances	15	

ASK ALL

S2 Good morning / afternoon, my name is NAME, calling from IFF Research, an independent research company. We're currently working with the Department of Business, Innovation and Skills and the Equality and Human Rights Commission to explore employers' experiences of managing pregnancy and maternity in the workplace.

You should have received a letter providing some more background to the study. This represents an opportunity for you to give your views on these issues, and contribute to policy in this area. Results from this research will be published next year, and will be available on the BIS and EHRC websites.

This interview takes around 25 minutes. Please note that all data will be reported anonymously and your answers will not be reported to our client in any way that

would allow you to be identified.

Would it be OK to continue with this now, or would you prefer to arrange a more suitable date and time?

INTERVIEWER NOTE: IF RESPONDENT ATTEMPTS TO TRANSFER TO SOMEONE AT ANOTHER SITE: We ideally need to speak to someone at this site rather than someone at another branch or office of your organisation. This is because the survey asks questions which are specific to this site, rather than about general company policy.

Continue	1	CONTINUE
Referred to someone else at establishment NAME _____ JOB TITLE _____	2	TRANSFER AND RE-INTRODUCE
Referred to someone else at the head office (INTERVIEWER NOTE: This should be a last resort – we ideally want to speak to someone at the site) NAME _____ JOB TITLE _____ NUMBER _____	11	TRANSFER TO HEAD OFFICE SAMPLE QUEUE (DISPLAY SITE NAME AND ADDRESS)
Hard appointment	3	MAKE APPOINTMENT
Soft appointment	4	
Refusal – specify	5	THANK AND CLOSE
Refusal – company policy	6	
Refusal – taken part in recent survey	7	
Not available in deadline	8	
Show reassurances	9	
Wants reassurance email (this is the advance letter as an email)	10	Collect email address and then either continue or arrange

		appointment
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REASSURANCES TO USE IF NECESSARY

- The interview will take around 25 minutes to complete.
- The report from the research will be available on the BIS and EHRC websites in 2015
- Please note that all data will be reported anonymously and your answers will not be reported to our client in any way that would allow you to be identified.
- Interviews will be recorded. This is only for quality assurance purposes.
- IFF is a member of the Market Research Society
- IF RESPONDENT WANTS REASSURANCES OR TO KNOW MORE ABOUT THE STUDY: More information about the survey is available on the EHRC website at www.equalityhumanrights.com

S3 INTERVIEWER NOTE:

FINE TO CONTINUE	1	GO TO S6
LANGUAGE DIFFICULTIES	2	GO TO S4
respondent MAY HAVE learning difficulties, hearing or speech impairment, or other disability WHICH IS MAKING THE INTERVIEW DIFFICULT TO CONDUCT	3	GO TO S5

ask if language difficulties (S3=2)

S4 Is there someone who would be able to interpret for you or to answer the questions on your behalf?

Yes – but this person not currently available	1	ARRANGE TO CALL BACK TO CONDUCT INTERVIEW WHEN PROXY IS AROUND
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		(NOTE NAME OF PERSON AND TIME & DATE TO CALL BACK)
Yes – this person available now	2	ASK TO SPEAK TO THIS PERSON; THEN RE-INTRODUCE THE SURVEY AND PROCEED WITH THE INTERVIEW
No (INTERVIEWER: NOTE LANGUAGE REQUIRED)	3	THANK AND CLOSE

ask if respondent MAY HAVE learning difficulties, hearing or speech impairment, or other disability WHICH IS MAKING THE INTERVIEW DIFFICULT TO CONDUCT (S3=3)

S5 Is there someone who would be able to answer the questions on your behalf?

[IF HEARING IMPAIRMENT: would you prefer to conduct the interview using Type Talk?]

Yes – but this person not currently available	1	ARRANGE TO CALL BACK TO CONDUCT INTERVIEW WHEN PROXY IS AROUND (NOTE NAME OF PERSON AND TIME & DATE TO CALL BACK)
Yes – this person available now	2	ASK TO SPEAK TO THIS PERSON; THEN RE-INTRODUCE THE SURVEY AND PROCEED WITH THE INTERVIEW
Yes –prefer to conduct the interview using Type Talk	3	ARRANGE SUITABLE TIME
No (INTERVIEWER: NOTE THE ISSUE)	4	THANK AND CLOSE

ask Welsh sample

S6 Before I continue, can I just check, would you prefer this conversation in

English or in Welsh?

Prefer English	1	CONTINUE IN ENGLISH
Prefer Welsh	2	CONTINUE IN WELSH VERSION (IF WELSH SPEAKER) OR SAY WILL BE CALLED BACK SOON BY ONE OF OUR WELSH SPEAKING INTERVIEWERS
Don't mind	3	CONTINUE IN ENGLISH IF ENGLISH SPEAKER OR IN WELSH IF WELSH SPEAKER

ask all

S7 First, can I just ask, what is your job title?

do not read out. single code.

Human Resources director / manager / officer	1
Personnel director / manager / officer	2
Training director / manager / officer	3
Financial/Accounting director/ manager / officer	4
General manager	5
Owner/proprietor	6
Managing Director	7
Director / Other director	8
Other manager	9
Other (write in)	10
Refused	11

ask ALL

S8 And are you the best person to speak to at this establishment about HR

issues, including managing pregnancy and maternity issues in the workplace?

Yes	1	CONTINUE
No	2	COLLECT NAME AND NUMBER AND ASK TO TRANSFER (AT S2)
One of the best / share responsibility with others	3	CONTINUE

This call may be recorded for quality and training purposes only.

A Workplace Characteristics Part 1

ASK ALL [Q1]

A1 Now some questions about you and your organisation. Approximately how long have you worked for your organisation?

PROMPT IF NECESSARY, single code.

Less than one year	1
12 months, up to 2 years	2
Over 2 years, up to 3 years	3
Over 3 years, up to 5 years	4
Over 5 years	5
Don't know	6
Refused	7

ask all [New question]

A2 Is the establishment where you work the only establishment within the organisation? By establishment we mean this workplace, premises, place of business or branch, rather than the company or organisation as a whole.

read out. single code.

Yes (only establishment)	1	GO TO A6
No (part of a larger organisation)	2	CONTINUE TO A3

DO NOT READ OUT: Don't know	3	
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ask IF A2 = 2 OR 3 [NEW QUESTION FOLLOWING BIS/EHRC COMMENTS]

A3 What is the approximate total number of employees on the payroll of the organisation across the whole of Great Britain? Please exclude any agency workers, freelancers or casual staff without a contract. Is it...READ OUT

Fewer than five	1	We are only looking to INTERVIEW ORGANISATIONS with 5 or more workers – thank and close
Between 5 and 9 people	2	CONTINUE
Between 10 and 24 people	3	
Between 25 and 49 people	4	
Between 50 and 99 people	5	
Between 100 and 249 people	6	
250+ people	7	
DO NOT READ OUT: Don't Know	8	CONTINUE

ask if part of a larger organisation OR UNSURE (A2 = 2 OR 3) [New question]

A4 And is the organisation...?

read out. single code.

UK owned	1
Or foreign owned	2
DO NOT READ OUT: Don't know	3

ASK if part of larger organisation OR UNSURE (A2 = 2 OR 3) [NEW question]

A5 And is this establishment the organisation's [IF FOREIGN-OWNED A4=2: UK] headquarters?

single code

Yes	1
No	2
DO NOT READ OUT: Don't know	3

ask all [Amended from screener e]

A6 Excluding any agency workers, freelancers or casual staff without a contract, what is the approximate total number of employees on the payroll of this specific establishment, including yourself?

BY ESTABLISHMENT WE MEAN THIS WORKPLACE, PREMISES, PLACE OF BUSINESS OR BRANCH, RATHER than the company or organisation as a whole

ADD if necessary: Home-based workers, sales representatives and similar workers should be included if this is the establishment to which they principally report.	
WRITE IN:	
DO NOT READ OUT: Don't know	X
INTERVIEWER TO TAKE EXACT NUMBER AND CODE TO RANGES AS AT A6DK: CHECK THE TWO ARE CONSISTENT	

[DP – check that RANGE figure for ESTABLISHMENT not MORE than for ORGANISATION]

IF DON'T KNOW EXACT NUMBER AT A6

A6DK Is it approximately...

prompt with ranges

Fewer than five	1	ASK A6a
Between 5 and 9 people	2	
Between 10 and 24 people	3	
Between 25 and 49 people	4	
Between 50 and 99 people	5	
Between 100 and 249 people	6	
250+ people	7	CONTINUE TO A7
DO NOT READ OUT: Don't	8	THANK AND CLOSE

Know		
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IF FEWER THAN 5 STAFF (A6 < 5 OR A6DK = 1) ASK:

A6A Can I just confirm that there are fewer than five employees at [company name] at [address]. Is this correct?

Yes	1	(THANK AND CLOSE). We are only looking to establishments with 5 or more employees
No	2	RE-ASK A6 AGAIN
DO NOT READ OUT: Don't know	3	(THANK AND CLOSE). We are only looking to establishments with 5 or more employees

ask all

A7 **What is the total number of agency workers, freelancers or casual staff without a contract at this establishment, Is it approximately...**

READ OUT.

None	0
Between 1 and 4 people	1
Between 5 and 9 people	2
Between 10 and 24 people	3
Between 25 and 49 people	4
Between 50 and 99 people	5
Between 100 and 249 people	6
250+ people	7
DO NOT READ OUT: Don't Know	8

ASK ALL [NEW question]

A8 **Would you classify your organisation as...?**

READ OUT. SINGLE CODE.

One seeking to make a profit	1
As a charity or voluntary sector organisation or a social enterprise	2
Or as a local-government or central government funded body ADD IF NECESSARY: such as a school, the Civil Service, part of the NHS, a college or university, the Armed Services, an Executive Agency or other non-departmental public bodies	3
DO NOT READ OUT: None of the above, other (SPECIFY)	4
DO NOT READ OUT: Don't know	5

ASK ALL [AMENDED FROM Screener g]

A9 **The next few questions ask details about this specific establishment or site. Firstly what is the main activity of this establishment?**

INTERVIEWER PROBE FOR THE FOLLOWING - START WITH FIRST PROBE AND ONLY USE THE OTHERS IF NECESSARY TO GET CLEAR INFORMATION

What is the main product or service of this establishment?

What exactly is made or done at this establishment?

WRITE IN. TO BE CODED TO 2 DIGIT SIC 2007. ALLOW REFUSED.

ask all [new question]

A10 **Approximately how many, or what proportion of the workers at this establishment/site are female?**

probe for best estimate.

[If Number given]: WRITE IN	
NOTE: RANGE 1-A6	
[If proportion given]: WRITE IN	
NOTE: RANGE 1-100%	
All workers are female	3
No workers are female	4
DO NOT READ OUT: Don't know	5

If Don't know exact number OR proportion AT A10 (A10=5) [new question]

A10A Would you say it is approximately...

READ OUT.

Three quarters or more are female	1
More than half, but less than three quarters	2
Around half	3
More than a quarter, but less than half	4
A tenth to a quarter	5
Less than a tenth	6
None are female	7
DO NOT READ OUT: Don't Know	8

(IF HAVE 250+ staff (A6DK=7) AND INTEGER AT A10) [new question]

A10AI Can I just check, is the proportion of female employees at this establishment 10% or more...READ OUT

Yes	1
No	2
Don't know	3

DUMMY VARIABLE: GENDER OF EMPLOYEES

FEMSTAFF

CURRENTLY EMPLOY FEMALE STAFF A10>0 (NUMBER OR PERCENTAGE) OR A10= CODE 3 OR A10A=1-6	1
NO CURRENT FEMALE EMPLOYEES A10=0 (NUMBER OR PERCENTAGE) OR A10= CODE 4 OR A10A = 7	2

IF NO CURRENT STAFF ARE FEMALE OR DON'T KNOW IF HAVE FEMALE STAFF (FEMSTAFF=2 OR A10A=8) [new question]

A10B Has your establishment had any female workers on the payroll in the last 3

years?

Yes	1	ASK A11
No	2	CONTINUE TO A12
Don't know	3	

if HAVE HAD FEMALE STAFF IN THE PAST 3 YEARS (FEMSTAFF=1 or A10B=1)
[Amended from screener e]

A11 [IF CURRENTLY HAVE FEMALE STAFF (FEMSTAFF=1): Do you currently have any female workers who are] [IF HAD FEMALE STAFF IN LAST 3 YEARS (A10B=1): Were any of these female workers in the last three years] aged 45 or under?

Yes	1	SKIP TO A13
No	2	IF HAVE CURRENT FEMALE STAFF ASK A11a OTHERWISE CONTINUE TO A12
Don't know	3	IF HAVE CURRENT FEMALE STAFF ASK A11a OTHERWISE CONTINUE TO A12

if HAVE current FEMALE STAFF but none are aged 45 or under (FEMSTAFF=1 AND a11=2)

A11A In the last 3 years have any female staff at this establishment been aged 45 or under?

Yes	1	SKIP TO A13
No	2	CONTINUE TO A12
Don't know	3	

ASK A12 IF EMPLOY NO FEMALE STAFF CURRENTLY (FEMSTAFF=2) OR IF EMPLOY NO FEMALE STAFF AGED <45 CURRENTLY (FEMSTAFF=1 & A11=2) OR IF FEMALE STAFF < 10% [(A10 answered as % and <10) or (A10 answered as a number and this / A6 integer IS < 10) OR (A10A=6) OR (A10AI=2)]

(DATA PROGRAMMER: check respondents only falls into one of the 3 categories)

A12 Are any of the following reasons why you...

[IF DO NOT CURRENTLY EMPLOY FEMALE STAFF (FEMSTAFF=2): **do not currently employ female staff?**]

[IF EMPLOY WOMEN BUT NONE AGED 45 OR UNDER (FEMSTAFF=1 & A11=2): **do not employ any women under the age of 45?**]

[IF CURRENTLY HAVE FEMALE EMPLOYEES BUT LESS THAN A TENTH OF CURRENT EMPLOYEES ARE FEMALE ((A10 answered as % and <10%) or (A10 answered as a number and this / A6 integer IS < 10%) OR (A10A=6) OR (A10AI=2): **employ relatively few employees who are female?**]

READ OUT.

	YES	NO	DK	Refused
_1 The work is not well suited to women	1	2	3	4
_2 Our organisation has concerns about the impact of pregnancy and maternity	1	2	3	4
_3 We have not had any vacancies to fill	1	2	3	4
_4 [ASK ONLY IF A12_3=2 OR 3]_No suitable women applied for positions	1	2	3	4
_5 [ASK ONLY IF A12_3=2 OR 3]_We have had little/no interest in advertised roles from <IF NOT EMPLOYED ANY WOMEN: women> < IF CURRENTLY HAVE FEMALE EMPLOYEES BUT LESS THAN A TENTH OF CURRENT EMPLOYEES ARE FEMALE: women> < NOT EMPLOYED ANY WOMEN AGED 45 OR UNDER: women aged 45 or under>	1	2	3	4
_6 Other (specify)	1	2	3	4

ASK IF A12_2 = 1

A13) Which of the following specific concerns, if any, does the organisation have regarding pregnancy and maternity?

read out.

	YES	NO	DK
_1 The costs of paying maternity pay is something our organisation cannot afford	1	2	3

_2 The costs of covering for maternity leave are a risk our organisation cannot afford	1	2	3
_3 A woman returning to work after maternity leave is likely to spend time away from work looking after children	1	2	3
_4 A woman who is pregnant or returning to work after maternity leave may not be able/willing to work long hours	1	2	3
_5 A woman who is pregnant or returning to work after maternity leave may not willing/able to work changeable hours	1	2	3

ASK IF CURRENTLY EMPLOY FEMALE STAFF (FEMSTAFF=1)

A14) **Are any of your workforce at this establishment** [IF HAVE ANY AGENCY / CASUAL STAFF: EXCLUDING AGENCY, FREELANCERS AND CASUAL STAFF WITHOUT A CONTRACT: **currently pregnant?**]

read out if necessary. single code.

Yes	1
No	2
Don't know	3

ASK IF HAVE HAD FEMALE STAFF IN PAST 3 YEARS OR EMPLOY CURRENT FEMALE STAFF BUT NONE ARE PREGNANT/UNSURE IF PREGNANT (A10B=1 or A14=2-3)

A15) In the last three years, (that is, between [MONTH OF INTERVIEW] 2011 and now), have any of your workforce at this establishment [IF HAVE ANY AGENCY / CASUAL STAFF: EXCLUDING AGENCY, FREELANCERS AND CASUAL STAFF WITHOUT A CONTRACT: **been pregnant?**]

read out if necessary. single code.

Yes	1	
No	2	
Don't know	3	

if had a pregnancy in the establishment in the past 3 years (A14 = 1 OR A15=1)
[Amended question 2b]

A16) Over the last three years, approximately how many women at this establishment have been pregnant [IF CURRENTLY EMPLOY ANY PREGNANT WOMEN (A14=1): including any who currently are?]?

INTERVIEWER NOTE: INCLUDE ANY INSTANCES WHERE AN EMPLOYEE HAS NOTIFIED THEIR EMPLOYER OF PREGNANCY, OR COMPLETED Matb1 FORM.

WRITE IN	
DO NOT READ OUT: Don't know	X

CODE TO RANGES

IF DON'T KNOW EXACT NUMBER AT A16 (A16=X) [new question]

A16DK Is it approximately...

prompt with ranges

1-2	1
3-5	2
6-10	3
11-15	4
16-20	5
21-25	6
26-50	7
51-100	8
101+	9
Don't know	10
Refused	11

IF HAD FEMALE STAFF IN THE LAST 3 YEARS (FEMSTAFF=1 OR A10B=1)
 [new question]

A17A Approximately how many women at this establishment are currently on maternity leave?

A17B And in the last 3 years, approximately how many women at this establishment, if any, returned to work for this organisation following their maternity leave?

A17C And in the last 3 years, approximately how many women, if any, did not return to work for this organisation following their maternity leave?

	Number	Don't know
A17a:		X
A17b:		X
A17c:		X

[DP –CHECK A17A NUMBER CANNOT BE > THAN A16]]

CODE TO RANGES

IF DON'T KNOW EXACT NUMBER AT A17 [new question]

A17DK Is it approximately...

prompt with ranges

0	1
1-2	2
3-5	3
6-10	4
11-15	5
16-20	6
21-25	7
26-50	8
51-100	9
101+	10

Don't know	11
Refused	12

ask all [new question]

A18) Including any agency or contract workers, freelancers or casual staff, what number or proportion of the staff at this establishment are on...

READ OUT: INCLUDE EMPLOYEES WHO ARE WORKING THROUGH A PROBATIONARY PERIOD.

	Number	%	DK	Refused
_1 Permanent contracts:			X	V
_2 Temporary or fixed-term contracts:			X	V
_3 Zero hour contracts READ OUT: a zero hour contract is a contract where the employer does not guarantee to provide the worker with work and will only pay the worker for those hours which are actually worked			X	V
ASK IF A7 CODE 1-8 _4 Agency staff			X	V

DP: once % adds to 100% go straight to A19

IF ALL % GIVEN MUST ADD TO 100%

ASK ALL [new question]

A19) Is any trade union or staff association recognised by management for negotiating pay and conditions for any of the workforce at this workplace?

Yes, trade union	1
Yes, staff association	2
No	3
Don't know	4

B Managing issues relating to pregnancy and maternity

if LESS THAN 3 YEARS IN ORGANISATION OR DK (A1=1-3 OR 6) [Q3]

If you have worked for your organisation for less than three years, for each of the following questions please just think about the period you have worked for them.

ask if had a pregnancy in the establishment in the past 3 years (A14=1 or A15=1) [Q3]

B1 I'm going to read out a list of issues associated with managing pregnancy at work, maternity leave and returning to work. I would like you to give me a rating from 1 to 5 to describe how easy or difficult it is, in general, to manage each issue for the general workforce within your organisation, where 1 represents easy to manage and 5 is extremely difficult to manage. If any statement is not applicable to your establishment, please say.

single code each row.

[DP – ROTATE START]	Easy to manage				Extremely difficult to manage	Not sure/depends	Not applicable
_1 Pregnancy among those on short or fixed term contracts/appointments	1	2	3	4	5	6	7
_2 Sickness absences during pregnancy	1	2	3	4	5	6	7
_3 Arranging and managing maternity cover	1	2	3	4	5	6	7
_5 Managing workloads for other members of the team	1	2	3	4	5	6	7
_6 Costs associated with Statutory Maternity Pay	1	2	3	4	5	6	7

_7 The uncertainty of whether those on maternity leave will return to work	1	2	3	4	5	6	7
_8 Levels of sickness absence for those returning from maternity leave	1	2	3	4	5	6	7
_9 The impact of part time or flexible working during pregnancy or on return from maternity leave	1	2	3	4	5	6	7
_10 Communication with women while they are on maternity leave	1	2	3	4	5	6	7
_11 Managing the negative attitudes of other employees	1	2	3	4	5	6	7
_12 Pregnancy amongst casual employees without contracts/agency workers/those on zero hours contracts	1	2	3	4	5	6	7

ASK if had a pregnancy in the establishment in the past 3 years (A14=1 or A15=1)
[Q3 - adapted]

B2 Are these issues significantly more difficult to manage for managerial staff and those in professional roles, slightly more difficult, slightly easier, significantly easier, or is there no difference?

PROMPT AS NECESSARY.

Significantly more difficult	1
Slightly more difficult	2
Slightly easier	3

Significantly easier	4
No different	5
(DO NOT READ OUT) Don't know	6
(DO NOT READ OUT) Refused	7

if pregnancy amongst casual EMPLOYEES / agency workers/THOSE ON ZERO HOURS CONTRACTS is EASY to manage (B1_14=1-2)

B3 You mentioned that you find managing pregnancy amongst casual employees / agency workers/those on zero hours contracts easy to manage. Why is this?

DO NOT READ OUT. MULTICODE.

Easy to reduce their working hours	1
Easy to find replacement staff	2
Minimal / no disruption to other employees when they are on leave	3
Unforeseen absences during pregnancy are easier to manage amongst casual employees / agency workers	4
Easy to reorganise their work among existing staff	5
Other employees are less resentful when casual / agency are leave for long periods	6
Easy to manage their return to work	7
Easy to implement maternity pay	8
Easy to communicate with them while they are on maternity leave (e.g. easier than it is with permanent staff)	9
Other (specify)	10
Don't know / no particular reason	X

ask if had a pregnancy in the establishment in the past 3 years (A14=1 or A15=1)
[Q4a]

B4 Thinking about women working within this establishment during the last 3 years, have you adapted or altered their duties during their pregnancy?

single code.

Yes	1	ASK B5
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No	2	ASK B6
Don't know	3	

ask if B4 =1

B5 Were any of the following reasons why these changes were made?

READ OUT, CODE ONE PER ROW.

	Yes	No	Don't know	Refused
A health and safety risk assessment identified risks for employees in specific roles	1	2	X	V
An employee requested changes	1	2	X	V
We chose to make changes for reason other than health and safety risk assessment (please specify)	1	2	X	V

ask if had a pregnancy in the establishment in the past 3 years (A14=1 or A15=1) AND have had women return to work following pregnancy (A17B>0 or A17BDK=1-9) [Q4b]

B6 Again, thinking about women working within this establishment during the last 3 years, have you adapted or altered their duties at all on their return to work following maternity leave?

Yes	1	ASK B7
No	2	CONTINUE TO SECTION C
Don't know	3	

ask if B6 =1

B7 Were any of the following reasons why these changes were made?

READ OUT. CODE ONE PER ROW

	Yes	No	Don't know	Refused
A health and safety risk assessment identified risks for employees in specific roles	1	2	X	V
An employee requested changes	1	2	X	V
We chose to make changes for reason other than health and safety risk assessment (please specify)	1	2	X	V

IF necessary to alter duties (B4 = 1 OR B6 = 1) [Q4bi]

[IF CHANGES MADE DURING PREGNANCY (B4=1): **Thinking about pregnant employees**] [IF B4=1 AND B6=1:and] [IF CHANGES MADE ON RETURN FROM MATERNITY LEAVE (B6=1):

B8 Thinking about those returning from maternity leave] in what way did you adapt or alter their duties?

do not read out. multicode. probe: what other reasons, if any, were there?

Moved employee to another job	1
Changed the nature of the job (e.g. amount of travelling)	2
Changed the type of work place or work environment (e.g. moved to ground floor, got a new chair)	3
Changed their working patterns (e.g. changed shift patterns)	4
Changes in the total hours worked	5
Management responsibilities reallocated to other employees as employee no longer full-time	6
Other (please specify)	7
Don't know	8

Refused	9
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C Awareness of statutory entitlements/law regarding maternity and pregnancy rights and protection against discrimination

CA) Turning now to the rights of women in the workplace that become pregnant, on a scale of 1 to 5, where 1 is very low and 5 is very high, how aware do you feel of what women's rights in the workplace are when they become pregnant?.

	Very low Very high					DK	Don't know top of mind but would look for this information
Awareness of women's rights when become pregnant	1	2	3	4	5	6	V

ask all [Q5]

ASK ALL C1_2s; then C1_3s, following up each C1_4 straight away for each difficult at C1_3

	C1_2 Reasonable?	C1_3 ease of facilitating
_1 Ordinary Maternity Leave (weeks 1-26)		
_2 Additional Maternity Leave (weeks 27-52)		
_3 Maternity pay (weeks 1-39)		
_4 Paid time off to attend appointments associated with pregnancy (e.g. antenatal clinic, parental craft classes, relaxation classes)		
_5 Accumulation of annual leave during maternity leave		

_6 Right to request flexible working		
_7 An employee on maternity leave has the right to return to exactly the same job within or at the end of ordinary maternity leave (OML; weeks 1-26)		
_8 An employee on maternity leave returning during or at the end of additional maternity leave (AML; weeks 27-52) has the right to return to exactly the same job, unless it is not reasonably practicable, when they must be offered a suitable alternative job		
_9 Protection from being treated unfavourably because she is pregnant or on maternity leave (e.g. selected for redundancy, refused training or promotion opportunities)		
_10 Enhanced protection from redundancy during ordinary maternity leave (e.g. she has a legal right to be given priority over and above any other employee for a suitable alternative vacancy)		

ask ALL [Q5]

C1_2In regards to each of the following being a statutory right, do you think this is...

READ OUT. SINGLE CODE.

Totally reasonable	1
Fairly reasonable	2
Neither reasonable nor unreasonable	3
Not very reasonable	4

Not at all reasonable	5
(DO NOT READ OUT) Don't know	6

ask if have employed pregnant women in the last 3 years (A14=1 or A15=1) [Q5]

C1_3How easy or difficult is it for your organisation to facilitate [INSERT EACH FROM PREVIOUS GRID], on a scale of 1 – 5, where 1 equals easy to facilitate and 5 equals extremely difficult to facilitate?

IF THIS HAS NOT HAPPENED IN YOUR ORGANISATION PLEASE ANSWER NOT APPLICABLE

	Easy to facilitate Extremely difficult to facilitate					DK	Not applicable
[DP - Insert iteration]	1	2	3	4	5	6	7

ask if C1_3 = 4 or 5 (ASK THIS STRAIGHT AWAY AFTER RATED AS DIFFICULT; THEN BACK TO C1_3)

C1_4Why is this difficult?

OPEN, PROBE FOR DETAILS

WRITE IN:	
Don't know	X

ask if A17B>0

C2) In the last three years, have you had any cases where it has been difficult to offer the same job to an employee returning within or at the end of Ordinary Maternity Leave (weeks 1-26)?

ask if A17B>0

C2a) And in the last three years, have you had any cases where it has been difficult to offer the same or a 'suitable alternative' job where an employee has returned during or at the end of Additional Maternity Leave (weeks 27-52)?

DO NOT READ OUT, SINGLE CODE.

	C2	C2a
Yes	1	1
No	2	2
Don't know	3	3
Refused	4	4

ask if C2 OR C2a=1 [new question]

C3) Why was it difficult to [IF C2=1: offer the same job to an employee returning within or at the end of Ordinary Maternity Leave] [IF C2=1 AND C2a=1: or offer the same or a 'suitable alternative' job where an employee has returned during or at the end of Additional Maternity Leave]?

DO NOT READ OUT, MULTICODE OK.

The organisation had been restructured	1
Working patterns had changed	2
Location of work had changed	3
Duties of the role had changed	4
Hours of work had changed	5
Funding for role had finished	6
Other (please specify)	7
[DO NOT READ OUT] Don't know	8
Refused	9

ask if C2 OR C2A=1

C4) What did you end up doing in these cases?

do not read out, multicode

The same job was available/offered	1
A suitable alternative was offered	2
A different type of job was offered	3
The role was changed	4
Employee was made redundant	5
Employee decided to leave after being offered an alternative position	6
Other (please specify)	7
Don't know	8
Refused	9

ask if C4=2-4 [new question]

C5) What changes were made to workers jobs (compared to how it was before they went on maternity leave) in these circumstances?

DO NOT READ OUT, MULTICODE.

Pattern of work (e.g. shift pattern)	1
Hours of work (e.g. changed to part-time working)	2
Location of workplace	3
Frequency of business travelling changed	4
Lower grade/level	5
Different responsibilities	6
Other (please specify)	7
Don't know	8
Refused	9

ask all [q10]

C6) Does your organisation provide any guidelines, training or other support for managers which covers or includes issues relating to pregnant women, those on

maternity and those returning from maternity leave? We mean more than giving verbal advice if asked by managers.

Yes	1	ASK C7
No	2	ASK D1
Don't know	3	

If developed guidance (C6=1) [q10a]

C7) Did the guidance, training or support cover any of the following issues...

READ OUT. MULTICODE.

A policy statement or a procedure manual regarding maternity	1
Equality guidelines (e.g. guidelines on recruitment, training and development, flexible working, sickness absence, disciplinary action)	2
Health and Safety guidelines (e.g. risks to pregnant women/new mothers, how to conduct risk assessments, action following risk assessments)	3
Breastfeeding and expressing at work guidelines	4
Statutory rights guidelines (e.g. notification procedures, time off for appointments, maternity leave and benefits, parental leave, rights for part time / temporary / casual workers)	5
Guidelines on handling complaints regarding pregnancy at work, maternity leave or returning to work following maternity leave)	6
Guidelines on communicating with workers on maternity leave	7
Training for line managers (who are managing pregnant staff or those on or returning from maternity)	8
Training in employment law for those involved in recruitment	9
Other (please specify)	10
(DO NOT READ OUT) Don't know	11

D Risk Assessments

ASK ALL EXCEPT IF B5_1=1 OR B7_1=1 (B5_1=1 OR B7_1=1 GO TO SECTION E) [new question]

D1 Does your organisation conduct a health and safety risk assessment for the activities of your business?

single code

Yes	1	ASK D2
No	2	GO TO SECTION E
Don't know	3	
Refused	4	

ASK IF D1 = 1 [new question]

D2 Has this risk assessment identified any specific hazards or risks for woman who are pregnant or who are new mothers?

single code

Yes	1	ASK D3
No	2	GO TO SECTION E
Don't know	3	
Refused	4	

ASK IF D2 = 1 [new question]

D3 What action, if any, was taken to address these risks?

do not read out .code all that apply. probe: what others, if any, were there?

Moved employee to another job	1
Suspended employee on full pay	2
Suspended employee without pay	3
Informal arrangement in which the mother did not have to work but remained on full pay	4

Changed their working patterns (e.g. changed shift patterns)	5
Changed the type of work place or work environment (e.g. moved to ground floor, got a new chair)	6
Changed (reduced) the hours they worked	7
An occupational health assessment was undertaken	8
Amended work duties (SPECIFY HOW)	9
Took other action (SPECIFY)	10
No action was taken	11
Don't know	12
Refused	13

E Employer awareness of sources of advice and guidance on employment issues relating to pregnancy and maternity

ask all

E1 Have you personally sought information or guidance on employment issues relating to pregnancy and maternity in the last three years?

Yes	1	ASK E2
No	2	GO TO SECTION F
Don't know	3	

ask if E1 = 1 [new question]

E2 Thinking about the information currently available on the responsibilities of employers towards pregnant women and those on or returning from maternity leave, how would you rate firstly the current availability and secondly the current quality of information, where 1 equals very poor and 5 equals excellent:

single code per row.

	Very poor Excellent	Depends on where	DK
--	--------------------------------	---------------------------------	-----------

						you look	
_1 Availability	1	2	3	4	5	6	7
_2 Quality	1	2	3	4	5	6	7

ask if E1 = 1 [new question]

E3 Thinking about sources of information on the responsibilities of employers towards pregnant women and those on or returning from maternity leave, in the last three years, where have you received (or gone to get) this information from?

do not read out. multicode. probe: any others?

Advisory, Conciliation and Arbitration Service (ACAS) website/telephone line/publications (including Equality Direct)	1
Accountants	2
Chartered Institute of Personnel and Development (CIPD) websites'/publications	3
Employers / business bodies or organisations (e.g. British Chambers of Commerce (BCC), Federation of Small Businesses (FSB), Confederation of British Industry (CBI), Institute of Directors (IoD))	4
The Equality and Human Rights Commission (EHRC) website/publications	5
Government department publications, helplines or websites (e.g. HM Revenue & Customs (HMRC), Department for Business Innovation and Skills, legislation guidance)	6
HR consultancy service/outsourcing/advisor	7
HR periodicals / websites / materials (e.g. People Management, Croners)	8
Internet search, e.g. Google	9
Law Firms / solicitors (including company lawyers)	10
Maternity Action	11
Networks (local or industry networks)	12
Newspapers / magazines	13
Pension scheme advisor	14

Personal contacts/friends	15
Training courses/seminars	16
Internal sources (e.g. colleagues, company handbooks, intranet)	17
Trade associations	18
Working Families	19
Xpert HR	20
Other 1 (please specify)	21
Other 2 (please specify)	22
Other 3 (please specify)	22
No information received / sought	V
Don't know	X

ask all who coded any AT E3 [new question]

E4 [IF MORE THAN ONE SOURCE CODED AT E3: Which of these sources do you trust to provide accurate information?] [IF ONLY CODED 1 SOURCE AT E3: Do you trust this source to provide accurate information?]

[DP – need to insert list of those selected at E3]

read out if necessary. multicode.

ask all who coded more than one code at E3 [new question]

E5 And thinking of the sources you have used in the last 3 years, which one of these sources do you use most often?

[DP – need to insert list of those selected at E3]

read out if necessary.

single code.

ASK IF SOUGHT GUIDANCE (E1=1) [new question]

E6 What topics relating to pregnant woman and those on or returning from maternity leave have you sought information or advice on in the last 3 years?

DO NOT read out. multicode.

Maternity leave and pay entitlements	1
Statutory rights relating to time off for appointments	2
Statutory rights relating to the notice period regarding a woman's return to work following maternity leave	3
Parental leave	4
Breastfeeding guidelines	5
Guidance on recruiting temporary staff for and arranging and planning maternity cover	6
Guidelines on how to communicate appropriately to members of staff on maternity leave (including Keeping in Touch (KIT) days)	7
Health and Safety (e.g. risks to pregnant women/new mothers, how to conduct risk assessments, action following risk assessments)	8
Equal/fair treatment for pregnant employees or avoiding pregnancy discrimination)	9
Information on sickness absence and adjustments (reasonable adjustments made to an employee's job due to their pregnancy)	10
Rights for part-time / fixed-term / casual workers	11
Which workers have statutory entitlements	12
Handling complaints	13
How to recover Statutory Maternity Pay	14
Information on dealing with flexible working requests	15
Help available for SME's	16
Childcare vouchers	17
Shared Parental Leave/Pay	18
General information	19
Other (please specify)	0
Don't know (DO NOT READ OUT)	X

F Attitudinal statements relating to workers who are pregnant or returning from maternity leave

ask all [Q12]

F1 I am going to read out a series of statements and I'd like you to tell me the extent to which you personally agree or disagree that each applies to your

establishment. Please be as honest as possible, and think about what is typical or likely for this workplace. As with all your responses, answers are completely anonymous and confidential.

single code one per row. probe: is that strongly agree/disagree or just tend to agree/disagree?

RANDOMISE THE ORDER	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	DK
_1 Pregnant women are as committed to work as other members of the team	1	2	3	4	5	6
_2 During recruitment, women should declare upfront if they are pregnant	1	2	3	4	5	6
_3 During recruitment, it is reasonable to ask women about their plans to have children	1	2	3	4	5	6
_4 Some women at this workplace have abused their rights during pregnancy	1	2	3	4	5	6
_5 There is sometimes resentment amongst the team towards women who are pregnant or on maternity leave	1	2	3	4	5	6
_6 Pregnancy puts an unreasonable cost burden on this workplace	1	2	3	4	5	6
_7 Women returning to work after maternity leave are just as committed to work as	1	2	3	4	5	6

other members of the team						
_8 Pregnant women and new mothers are less interested in career progression and promotion than other employees	1	2	3	4	5	6
_9 Women should work for this organisation for at least a year before deciding to have children	1	2	3	4	5	6
_10 Women within this establishment who have had more than one pregnancy can be a burden to their team	1	2	3	4	5	6
_11 Supporting pregnant women and those on maternity leave is in the interests of this organisation	1	2	3	4	5	6

ask IF AGREED TO f1_11 (F1_11=4 or 5) [new question]

F2 You said you agreed that supporting pregnant women and those on maternity leave is in the interests of this this organisation. Why do you say this?

Do not read out. multicode. probe: any other reasons?

Increased staff retention / we want to keep them	1
Reduced recruitment costs	2
Reduced training costs	3
Better morale amongst employees	4
Other (specify)	5

G Complaints regarding maternity and pregnancy discrimination

ASK IF HAVE HAD PREGNANT EMPLOYEE IN PAST 3 YEARS OR RETURNERS OR POTENTIAL RETURNERS (A14=1 or A15=1 OR A17A>0 or A17B>0) [q14]

G1 Have any women within this establishment made a formal, written complaint relating to pregnancy or maternity-related discrimination in the last three years?

INTERVIEWER NOTE: THIS DOES NOT NEED to be a case that has gone to an employment tribunal.

code one only. IF YES, probe for whether one or more than one complaint.

Yes – one complaint in last 3 years	1	ASK G2
Yes – more than one complaint in last 3 years	2	
No	3	ASK G3
Don't know	4	
Refused	5	

ASK IF HAVE HAD COMPLAINTS (G1=1 or 2) [Q14a]

G2 What was the outcome of the (G1=2 ADD: most recent) complaint?

multicode. prompt to precodes.

Complaint withdrawn	1
Complaint ongoing /undecided (internal)	2
Complaint upheld internally	3
Complaint dismissed internally	4
Woman left organisation	5
Complaint lodged with Employment Tribunal (ET) but settled before case heard (e.g. for a sum of money, on condition of apology or a reference)	6
Case resolved through ACAS early conciliation	7
Complaint lodged with ET and ongoing	8
Case went to ET and decided in employer's favour	9
Case went to ET and decided in woman's favour	10
Case was dismissed by ET	11

Other (specify)	12
Don't know	13
Refused	14

ASK if HAVE HAD PREGNANT EMPLOYEE IN LAST 3 YEARS OR RETURNERS OR POTENTIAL RETURNERS (A14=1 or A15=1 OR A17A>0 or A17B>0) [new question]

G3 Are you aware that the cost for employees of bringing a case to employment tribunal increased significantly from July 2013?

Yes	1	ASK G4
No	2	ASK G6
Don't know	3	

ASK IF G3=1

G4 Do you think that this has had any impact for...

	YES	NO	DK
1 Your organisation?	1	2	3
_2 Employees at your establishment?	1	2	3

ASK IF G4_1 =1 OR G4_2 = 1

G5 What impacts has it had?

WRITE IN	
Don't know	1
Refused	2

ASK IF HAVE EMPLOYED PREGNANT EMPLOYEES IN PAST 3 YEARS OR RETURNERS OR POTENTIAL RETURNERS (A14=1 or A15=1 OR A17A>0 or

A17B>0) [amended question Q15]

G6 Sometimes women decide not to make a formal complaint when they feel they have been unfairly treated.

Have there been any informal discussions between pregnant women, women on maternity/returning to work and yourself or your department regarding perceptions of unfair treatment, even if this was not pursued further?

code one only

Yes	1
No	2
Don't know	3
Refused	4

ASK if HAVE HAD PREGNANT EMPLOYEE IN LAST 3 YEARS OR RETURNERS OR POTENTIAL RETURNERS (A14=1 or A15=1 OR A17A>0 or A17B>0) [Q15a]

G7 Have there been any informal discussions between (line) managers and yourself or your department regarding issues with managing pregnant women or those on or returning from maternity leave?

ADD if necessary: for example, for advice on these issues, where a women is felt to be abusing her situation, or where a manager wishes to take action that could be classified as discriminatory.

single code

Yes	1
No	2
Don't know	3
Refused	4

ASK if HAD INFORMAL DISCUSSIONS (G7=1) [Q15b]

G8 What issues have these informal discussions covered?

do not read out multicode

General management issues regarding employees during pregnancy or those on or returning from maternity leave	1
Health and safety for pregnant employees or those on or returning from maternity leave	2
The use of 'Keep In Touch' (KIT) days	3
Flexible working for pregnant employees or those on or returning from maternity leave	4
Accommodating requests to express milk or breastfeed in the workplace	5
Issues regarding sick leave for employees during pregnancy or those on or returning from maternity leave	6
What can be considered 'reasonable' travel and overnight stays for employees during pregnancy or after returning from maternity leave	7
What constitutes reasonable time off (for appointments etc) during pregnancy or after returning from maternity leave	8
Complaints from other employees of favourable treatment for pregnant employees	9
How to handle when an employee's role or position changes or no longer exists while they are on maternity leave	10
Other (specify)	11
Don't know	12
Refused	14

H Actions and attitudes relating to dismissals, redundancies and restructuring (and awareness of legislation in this area)

read out: the next section looks at experiences of redundancy or restructuring within your organisation. we realise some of these questions could be sensitive, but it will really help BIS and the EHRC to have your honest responses. All responses are anonymised and will not be attributable to you or your organisation.

ASK ALL [new question]

H1 In the last three years, has your establishment made any staff redundant,

either voluntarily or compulsory?

READ OUT: INCLUDE ANY TERMINATION OF FIXED TERM OR ROLLING CONTRACTS WHERE THERE WAS AN EXPECTATION FROM THE EMPLOYEE THAT THIS CONTRACT WOULD BE RENEWED

single code

Yes	1	CONTINUE TO H2
No	2	GO TO H8
Don't know	3	
Refused	4	

if made any staff redundant (H1=1) AND HAVE HAD PREGNANT EMPLOYEE IN LAST 3 YEARS (A14=1 or A15=1) [new question]

H2 In the last three years, has your establishment made any pregnant women redundant, either voluntarily or compulsory?

single code

Yes	1	CONTINUE TO H3
No	2	GO TO H4
Don't know	3	
Refused	4	

if made any pregnant women redundant (H2=1) [new question]

H3 In the last three years, approximately how many pregnant women have been made redundant?

None	0
WRITE IN:	
DO NOT READ OUT: Don't know	X

DO NOT READ OUT: Some but don't know how many	
DO NOT READ OUT: Don't measure/record this information	V

IF DON'T KNOW EXACT NUMBER AT H3

H3DK Is it approximately...

prompt with ranges

1-2	1
3-5	2
6-10	3
11-15	4
16-20	5
21+	6
DO NOT READ OUT: Don't Know	7
DO NOT READ OUT: Refused	8

ASK if H1=1 AND HAVE HAD PREGNANT EMPLOYEE IN LAST 3 YEARS (A14=1 or A15=1) [new question]

H4 In the last three years, how many workers on maternity leave, if any, have been made redundant?

None	0
WRITE IN:	
DO NOT READ OUT: Don't know	X
Some, but don't know how many	
DO NOT READ OUT: Don't measure/record this information	

IF DON'T KNOW EXACT NUMBER AT H4 (CODE V)

H4DK Is it approximately...

prompt with ranges

1-2	1
3-5	2
6-10	3
11-15	4
16-20	5
21+	6
None	7
DO NOT READ OUT: Don't Know	8
DO NOT READ OUT: Refused	9

ask if H2 = 1 or H4>0 OR some but don't know how many OR H4DK=1-6 [new question]

H5 Thinking of the redundancies of pregnant women or those on maternity leave in the last three years, were any of these individuals informed about their redundancy at any of the following points...

read out. MULTICODE.

	YES	NO	DK
_1 Prior to disclosing that they were pregnant	1	2	3
_2 After disclosing that they were pregnant, but prior to going on Maternity Leave	1	2	3
_3 While on Ordinary Maternity Leave	1	2	3
_4 While on Additional Maternity Leave	1	2	3
_5 Having returned to work following Maternity Leave	1	2	3
_6 At the same time as other redundancy announcements, regardless of stage of pregnancy or maternity leave	1	2	3

ASK IF HAVE MADE EMPLOYEE ON MATERNITY LEAVE REDUNDANT (H4>0 OR SOME BUT DON't KNOW HOW MANY or H4DK=1-6) [new question]

H6 In the last three years, where employees on maternity leave were selected for redundancy, were all, some or none they offered a suitable alternative vacancy?

SINGLE CODE

All	1	ASK H7
Some	2	
None	3	ASK H8
Don't know	4	
Refused	5	

ask if H6=1

H7 Were they offered this vacancy ahead of other workers not on maternity leave?

SINGLE CODE.

Yes in all cases	1
Yes in some cases	2
No	3
Don't know	4
Refused	5

ASK ALL [new question]

H8 Are you aware of the ACAS 'Managing redundancy for pregnant workers and those on maternity leave' guidance?

IF YES (H8=1)

H8a) Have you used this guidance in the last 3 years?

	H8	H8a
Yes	1	1
No	2	2
Don't know	X	X
Refused	V	V

ASK ALL [new question]

H9 To what extent would you agree or disagree with the following statement:
 “Our workplace redundancy selection processes are clear and transparent”?

single code each row.

	Strongly disagree		Strongly agree			DK
_1 Our workplace’s redundancy selection processes are clear and transparent	1	2	3	4	5	6

ASK IF HAVE HAD PREGNANCY IN THE LAST THREE YEARS (A14=1 or A15=1) [new question]

H10 Moving on now to dismissals, in the last three years, has your establishment dismissed any employees who were pregnant or on maternity leave?

single code.

Yes	1
No	2
Don’t know	3
Refused	4

if dismissed any employees who were pregnant or on maternity leave (H10=1) [new question]

H11 In the last three years, how many employees who were pregnant or on maternity leave have been dismissed?

WRITE IN:	
DO NOT READ OUT: Don’t know	X
DO NOT READ OUT: Some but don’t know how many	
DO NOT READ OUT: Don’t measure/record this information	V

IF DON’T KNOW EXACT NUMBER AT H11

H11DK Is it approximately...

prompt with ranges

1-2	1
3-5	2
6-10	3
11-15	4
16-20	5
21+	6
DO NOT READ OUT: Don't Know	7
DO NOT READ OUT: Refused	8

I Flexible working practices

read out: we are now interested in discussing flexible working practices at your ESTABLISHMENT

ask all [Q5]

[DP – loop Qs I_1, I_2, and I_3 for each iteration below]

Iterations

1_Part time working
2_Reduced working hours in some other way
3_Compressed hours: this is where an employee works full-time hours over fewer days in their working week, for example, working a 40 hour week over four days, or working a nine-day fortnight.
4_Flexi-hours/flexi-time
5_Job sharing
6_Working from home/working from home more frequently
7_Making fewer business trips away from usual place of work
8_Annualised hours, where the number of hours staff have to work is calculated over a full year rather than a week or month.
9_Staggered hours [ADD IF NECESSARY - The employee has different start, finish and break times from other workers]
10_Zero hour contract [ADD IF NECESSARY – A zero hour contract is a

contract where the employer does not guarantee to provide the worker with work and will only pay the worker for those hours which are actually worked]

11_Term-time working

I1_1 [insert flexible working iteration] - is this available to all of your workers, some of your workers, or is it not available at your establishment?

single code, PROMPT: IF AVAILABLE - TO ALL OR AT LEAST SOME?

Available to all	1	
Available to at least some workers	2	
Not available	3	
Don't know	4	
Refused	5	

ask if had a pregnant EMPLOYEE in the past 3 years (A14=1 or A15=1) and each practice available at I1_1 (I1_1=1-2) [new question]

I1_2 Are all pregnant women offered the option of [insert flexible working iteration]; are some pregnant women offered this; or is it considered following a request?

single code.

All offered	1
Some offered	2
Considered following request	3
Not offered [DO NOT READ OUT]	6
Don't know	X
Refused	V

ask if have had women return to work following pregnancy OR HAVE POTENTIAL RETURNERS AND PRACTICE AVAILABLE AT I1_((I1_1=1-2) AND A17A>0 or A17ADK=2-10 OR A17B>0 or A17BDK=2-10) [new question]

I1_3 Are all mothers returning to work offered the option of [insert flexible working iteration]; some mothers are offered this; or is it considered following a request?

SINGLE CODE.

All offered	1
Some offered	2
Considered following request	3
Not offered [DO NOT READ OUT]	6
Don't know	4
Refused	5

ASK those who have had a pregnant EMPLOYEE IN THE past 3 years (A14=1 or A15=1) [new question]]

I2 In the last three years, approximately how many pregnant women, women on maternity leave, or those returning from maternity leave have requested flexible working arrangements?

WRITE IN:	
DO NOT READ OUT: Don't know	X

IF DON'T KNOW EXACT NUMBER AT I2

I2dk Is it approximately...

READ OUT

1-2	1	ASK I3
3-5	2	
6-10	3	
11-15	4	
16-20	5	
21+	6	
DO NOT READ OUT: Don't Know	7	CHECK I4
DO NOT READ OUT: Refused	8	

ASK if I2 write in $\neq 0$, or I2DK = 1-6 [new question]

I3 Were all these requests granted, most, a minority, or were none of the requests granted?

Single code.

All requests	1	GO TO SECTION J
Most requests	2	ASK I4
A minority of requests	3	
No requests	4	
[DO NOT READ OUT] Don't know	5	GO TO SECTION J
[DO NOT READ OUT] Refused	6	

ASK if I3 = 2 oR 3 OR 4 [new question]

I4 Where requests were not granted, what were the reasons for this?

multicode, prompt to precodes

Extra costs	1
The work can't be reorganised among other staff	2
People can't be recruited to cover the work	3
Flexible working will affect quality and performance	4
The business won't be able to meet customer demand	5
There is a lack of work to do during the proposed working times	6
The business is planning changes to the workforce	7
To avoid resentment from colleagues	8
Sets unhelpful precedent	9
Had to balance flexible working requests of other employees	10
Operational requirements	11
Other reasons (please specify)	12
Don't know	13
Refused	14

J Breastfeeding

READ OUT: now if we could move on to your views and experiences on breastfeeding and expressing milk in the establishment

ASK ALL [new question]

J1 Where one equals strongly disagree, and five equals strongly agree: to what extent would you agree or disagree that...

single code each row.

	Strongly disagree		Strongly agree			DK
	1	2	3	4	5	6
_1 You are clear about what you need or would need to do to accommodate requests to express milk or breastfeed in the workplace						

ASK ALL [new question]

J2 What facilities or opportunities for expressing milk or breastfeeding does your establishment provide, or are available if these aren't currently used?

DO NOT READ OUT, MULTICODE, PROBE FOR OTHERS.

Flexible breaks to allow for breastfeeding or expressing milk	1
A private room other than a toilet or sick room with suitable facilities for breastfeeding or expressing milk	2
A toilet or sick room	3
Storage facilities for breast milk (e.g. a fridge)	4
Other (please specify)	5
Don't know	6
None	7
Refused	8

ASK IF HAVE EMPLOYED PREGNANT EMPLOYEES IN PAST 3 YEARS (A14=1 OR A15=1) [new question]

J3 How many pregnant women or mothers returning to work at this establishment have requested arrangements for expressing milk or breastfeeding

at work in the last three years?

WRITE IN:	
DO NOT READ OUT: Don't know	X

IF DON'T KNOW EXACT NUMBER AT J3

J3dk IS IT aPPROXIMAtely...

prompt with rangeS

None	1
1-2	2
3-5	3
6-10	4
11-15	5
16-20	6
20+	7
Don't know	8
Refused	9

ASK if J3 write in $\neq 0$, or J3DK = 2-7 [new question]

J4 What proportion of these requests were granted?

SINGLE CODE, prompt to precodes.

All requests	1
Some requests	2
No requests	3
Don't know	4

K Communication and Keep In Touch (KIT) Days

ASK ALL [new question]

K1 Are you aware of 'keeping in touch' (KIT) days for women on maternity leave?

ADD IF NECESSARY: Workers can work up to 10 days during their maternity, adoption or additional paternity leave. These days are called 'keeping in touch days'. Keeping in touch days are optional, both the employee and employer need to agree to them

single code.

Yes	1	ASK K2
No	2	ASK K3
Don't know	3	
Refused	4	

ASK if HAVE HAD PREGNANT EMPLOYEE IN LAST 3 YEARS AND AWARE OF KIT ((A14=1 OR A15=1) AND K1=1) [new question]

K2 Has your organisation made use of 'keeping in touch' (KIT) days in the last 3 years?

single code.

Yes	1
No	2
Don't know	3
Refused	4

ask if HAVE HAD PREGNANT EMPLOYEE IN LAST 3 YEARS (A14=1 or A15=1)

K3 [IF HAVE USED KIT DAYS IN LAST 3 YEARS (K2=1): Besides 'Keeping in Touch' days] Does there tend to be any [other] formal or informal contact with employees on maternity leave?

Yes	1	ASK K4
No	2	ASK L1
Don't know	3	

ask if THERE IS OTHER FORMAL OR INFORMAL CONTACT WITH EMPLOYEES ON MATERNITY LEAVE (K3=1)

K4 At what point(s) is this contact made?

do not read out, multicode.

In the first few weeks of maternity leave (e.g. to follow-up on work issues occurring just before maternity leave)	1
Regularly throughout maternity leave	2
Occasionally throughout maternity leave	3
Close to the point of a woman returning from maternity leave	4
Other (please specify)	5
Don't know	6

ask if THERE IS OTHER FORMAL OR INFORMAL CONTACT WITH EMPLOYEES ON MATERNITY LEAVE (K3=1)

K5 Generally, how frequently is contact made with employees on maternity leave?

SINGLE CODE, prompt if necessary.

Every day	1
Several times a week	2
Once a week	3
A few times a month	4
Several times a month	5
Several times in a period of months	6
Very occasionally when absolutely necessary	7
Only to discuss returning to work	8
Other (please specify)	9
Don't know	10

ask if K3=1

K6 What is the purpose of this contact?

do not read out, multicode.

To help those on maternity leave to maintain skills	1
To help those on maternity leave to keep up to date with developments in the workplace	2
To discuss plans for returning to work	3
To keep them 'in the loop'	4
Others (please specify)	5
Don't know	6

ASK ALL [new question]

K7 Where one equals strongly disagree and five equals strongly agree, to what extent would you agree or disagree that .

	Strongly disagree		Strongly agree			DK
_1 Pro-actively contacting an employee on maternity leave may be interpreted as putting them under pressure to return to work sooner	1	2	3	4	5	6

J HR Issues

READ OUT: now just a few questions about HR processes

ASK ALL [new question]

J1 Who within your organisation makes individual HR decisions in relation to pregnant women and women on maternity or returning to work (e.g. where an employee makes a request for flexible working)?

SINGLE CODE, PROMPT IF NECESSARY.

Director(s)	1
Senior managers	2
Central HR department/team	3
Individual line managers	4
The respondent	5
Other (please specify)	0
Don't know	X
None of these	V

ASK IF L1=4 [new question]

J2 Where do line managers get their information and advice regarding pregnancy and maternity HR issues from?

do not read out, MULTICODE.

Director(s)	1
Senior managers	2
Central HR department/team	3
External advice organisations	4
Other sources of information including the internet	5
From company training	6
Other (please specify)	7
Don't know	8
None of these	9

Re-contacting and checking contact details

ASK ALL

Thank you very much for your time today. Finally would you be willing for us to re-contact you again for:

multicode EXCEPT 4th OPTION

This particular study – if we need to clarify any of the information given in this interview	1
For further research that we may conduct as part of this research study (e.g. in-depth interviews with employers, or participation in workshops)	2
Other research studies which may be relevant to you	3
None of these	4

ASK IF CONSENT TO re-contact (M1 = 1-3)

And could I just check, is [NUMBER] the best number to call you on?

Yes	1
No - write in number	2

ASK IF CONSENT TO re-contact (M1 = 1-3)

And is [ADDRESS] the correct address to write to you?

Yes	1
No - write in correct address	2

SAY TO ALL

THANK RESPONDENT AND CLOSE INTERVIEW

Finally I would just like to confirm that this survey has been carried out under IFF instructions and within the rules of the MRS Code of Conduct. Thank you very much for your help today.

Qualitative Discussion Guide

Follow up Qualitative research

EMPLOYERS

J5375

Date 11/3/16

Introduction and background

- Introduce self

- Introduce IFF Research and work we are conducting for BIS/ EHRC
 - Thank you for agreeing to take part in this valuable piece of research looking at employer's views on Pregnancy and Maternity rights and legislation and implementing statutory requirements in the workplace.
 - The interview will take up to 60 minutes.

- Confidentiality
 - All the information we collect will be kept in the strictest confidence and used for research purposes only.
 - We will not pass any of your details on to any other companies. It will not be possible to identify any individual or individual company in the results that we report to BIS/EHRC and the answers you give will not be traced back to you.

- Recording
 - Permission to record.

General Intro

Can you tell me about your job role, and how long you have worked in the organisation?

Can you tell me a bit about the organisation [What you do? How long you have been in operating? Geographic scope? Number of sites? Number of staff?]

ASK [OR CHECK INFORMATION FROM THE QUANT SURVEY]

- Number of current staff that are pregnant (check job roles and seniority)
 - And approximate numbers over the last 2-3 years

- On maternity leave (check job roles and seniority)
 - Numbers in last 2-3 years

- Returned from maternity leave in the last 2-3 years.

A Level of support and management of issues

- Generally speaking, how easy do you find it as an organisation to manage a) pregnancy b) maternity leave and c) returning from maternity leave?
 - What aspects, if any, are or can be difficult to manage / problematic? Why is that?
 - Can you provide specific examples where things were difficult to manage, and how these issues were dealt with?)
- Have you got any examples whereby you believe a situation relating to the management of pregnancy / maternity in the workplace has gone particularly well?
- Have you got any examples whereby management of these issues could have gone better?
- In general, how do you find managers and staff react to colleagues becoming pregnant?
 - Have you observed any issues with this yourself (e.g. staff reacting negatively)?
- Have there been cases where pregnant employees or those returning from maternity leave have mentioned getting negative reactions from

colleagues?

- IF YES: can you say a bit about this. What are the causes of negative reactions / resentment [increased workload for others? A feeling that not committed etc.?)
- Whose responsibility is it to address this? How has it been addressed?
- Are there any times when pregnancy, maternity leave or women returning can put additional pressure on other members of staff? How do they tend to handle this?
 - IF ANY NEGATIVITY MENTIONED: How do you tend to manage this as an organisation?
- Have any staff (including yourself) received training in relation to pregnancy and maternity issues e.g. managing pregnancy and maternity, legal requests etc.)?
 - Which levels / positions?
 - What form does this tend to take? What is the content?
 - How often does this happen?
- Have you had employees with more than one pregnancy while working for you?

IF YES:

- Are there any differences in how a second pregnancy would be handled? What / why?
- Are the attitudes of management or other staff different in these cases? (less sympathetic?)

B Recruitment

- Are there any issues you have encountered when it comes to recruiting women who could potentially be pregnant or may be planning to have children?
 - IF YES: Could you tell me about this? What were your thoughts about this? What was the organisation's response? How was this managed?
 - IF HYPOTHETICAL RESPONSE: What would you feel if this happened? What would the likely response be, and how would you manage this?

- Do you ever ask interviewees' about their future plans in terms of having children? IF YES: is this just for women or also men? What do you do with this information?
- How reasonable do you think these types of questions are when recruiting employees? What do you think you should be able to ask?
- Do you think a woman should have to declare in an interview if they are pregnant? Why? What would your reaction be if an interviewee informed you that she was pregnant? How would this information be used?
- In the survey some employers felt that a female employee should work for them for at least a year before becoming pregnant.
 - What are your thoughts on this? IF AGREE: why do you think that?
 - What is the organisation's attitude towards women who become pregnant not long after starting a position? Among senior management teams? Other colleagues? HR?

C Health and Risks

- Can you tell me how health and safety protection for pregnant women works in your organisation?

PROBE:

- Does your organisation conduct a health and risk assessment for pregnant employees?

IF NO: why not?

IF YES:

- Is this conducted when an individual informs she is pregnant, or are new and expectant mothers considered in a general risk assessment (or both)?
- How does it normally work?
- Does the employee contribute her own perception of risks?
- When risks are identified how easily are adjustments made? Ask for some examples

CHECK:

- And does your organisation conduct health and risk assessments for

those returning from maternity leave?

IF YES:

Is there anything different in this approach in comparison to assessments for pregnant employees? What is different? Why is it different?

- What do you feel are employer's key responsibilities in this area?
 - How do you keep up to date on legislation in this area?
 - Are there any areas you feel less certain / confident about?
- Do pregnant women or returning employees ever raise risks or health issues with you of their own accord (i.e. that they have identified themselves)? IF YES: What sorts of things have been discussed?

- How does your workplace manage sickness during pregnancy? To what extent is it an issue / problem?
 - Have there been cases where women have had complicated pregnancies or required significant time off? IF SO: How has this been managed? What (additional) flexibility was provided, if any?
 - Do these circumstances affect the way in which you manage these employees' maternity leave?

D Flexible working requests

- Thinking now about flexible working. What is the organisation's overall approach regarding flexible working [is it something you actively encourage, offer quite widely, do you do it in exceptional circumstances, or not offer it]?
 - How has flexible working developed in your organisation over the last few years – are there more people working in this way / which types of flexible working have increased?
- How do you decide whether to accept a request for flexible working from a pregnant woman/ new mother or not? Does this differ at all depending on the employee making the request?
 - Level / skill/ current working pattern etc.
 - What criteria do you use?

IF ACCEPTED ANY FLEXIBLE WORKING REQUESTS:

- What were the reasons for accepting the request(s)?
 - How did this/these work out?

IF TURNED ANY DOWN:

- What were the reasons for turning down (some of) these requests from pregnant women / those returning from maternity?
 - What have been the impacts, if any, of refusing these requests? PROBE IF NOT MENTIONED: Worker productivity.
- Has the new legislation on the right of *all* employees to ask for flexible work made any difference to how your organisation handles flexible working requests?

PROBE:

- Has it had any impact on the chances of your organisation accepting requests for flexible working among pregnant employees or those on or returning from maternity leave? (Why?)

E Communication while on maternity leave

- Does the organisation keep in touch with your employees at all when they are on maternity leave?

IF YES:

- Can you talk me through how this process works?

PROBE IF NOT MENTIONED:

- Who does this: HR, line manager, other? (always or does this vary?)
- How often is there communication? How consistent is this level of frequency from employee to employee, or does it vary?
 - IF VARIES: Level? Position? Employee choice?
- Is frequency agreed beforehand? What do you feel about this level of frequency from the perspective of the

employer?

- Would you like it to be more / less frequent? Why?
- Does the contact tend to be in equal intervals? Or is there more contact towards the point of return?
 - Who tends to instigate the communication (or is it equal)?
 - In what mode does this communication tend to happen?
- What sorts of things are discussed as part of this communication?
 - Who tends to guide the communication in terms of content? Employee / employer or equally?
- What do you as an employer hope to get out of this contact? What are the advantages for the employee? What are the advantages for other employees in the organisation (i.e. team members? HR representatives, line managers)?
 - Are there any disadvantages or challenges faced for you as an employer in maintaining contact with employees on maternity leave?

IF HAVE NO OR VERY LITTLE CONTACT WITH EMPLOYEES WHILE ON MATERNITY LEAVE:

- PROBE REASONS WHY. Extent to which this employers / employees choice?
- What, for you are the advantages and disadvantages of having contact with employees while they are on maternity leave?
 - Do you face any particular challenges when an employee returns from maternity leave that could be mitigated by a greater degree of contact with employees when they're away?

[RESEARCHER NOTE: examine difference in response between small, medium and large organisations]

- Do you operate Keep In Touch (KIT) days?

IF OPERATE KEEP IN TOUCH (KIT) DAYS

- What is your understanding of these?
- How long has your organisation had keeping in touch days?
- How do these work? Who instigates them?
- In terms of format / content – how standard are they / do they tend to

vary?

- What are the benefits of KIT days? Are there any disadvantages? To the organisation? To the employee?

IF AWARE BUT DO NOT OPERATE KIT DAYS

- Could you tell me why you have decided not to operate KIT days?
 - What do you think the benefits would be? What would be the disadvantages?
 - How easy would they be to manage for your organisation?

F Length of ML and the return to work

- As an organisation, how do you tend to manage maternity leave?
- Do you experience any particular difficulties regarding maternity leave? (for example arranging maternity cover, re-organising workloads, uncertainty if / whether they will return)
- On average, what is the length of time that women tend to take for maternity leave? How much do your employees make use of Additional Maternity Leave?
 - What do you think about this?
 - How flexible do you tend to be regarding the length of time women take for maternity leave? How much notice do you tend to need before a woman returns?
 - How easy is it for you to manage women wanting to come back later than initially discussed? How about if they want to come back earlier?
 - Does this vary by level / role?
- Have there been any challenges associated with women returning to work following maternity leave?
 - What were they? How was this managed?
 - Do you ever see or tend to see a change in attitude to work / commitment / ambition/productivity? In what ways? How, if at all, is this managed?
 - Does it vary by things like seniority or length of service, or is it completely down to the individual?
 - What are the expectations regarding employees returning to work e.g. in terms of easing back in vs. "hitting the ground

running”? To what extent do employees meet these expectations?

- How are those returning from maternity treated, compared with other employees (or compared with before maternity leave)?
 - Exactly the same as other employees?
 - How different?
- What are your thoughts about statutory rights of female employees returning from Ordinary Maternity Leave to return to the ‘same job’, or for those that take Additional Maternity Leave their right to return to the ‘same job’, or being offered a ‘similar job / suitable alternative’?
 - Do you face any particular challenges with this? How are they resolved? Is there anything you would think of doing differently to ease the challenges in the future?
 - How do you interpret the “right to return to the same job” or a “similar” or “suitable alternative” job?
 - Under what circumstances would this not be possible?

G Redundancies

IF MADE ANY REDUNDANCIES AMONG ANY STAFF IN THE LAST 3 YEARS

- What criteria does your organisation use to select potential employees for redundancy?
- What is your approach to employees on maternity leave when considering potential employees for redundancy? Is this a factor taken into account? IF YES: how / why?

- Are you aware that women on maternity leave should receive “enhanced protection” from redundancy?
 - What do you take ‘enhanced protection’ to mean?
 - What are your thoughts on this? Why do you say that?
 - How easy to implement is this for your organisation?

H Complaints / informal discussions

- Can you briefly talk me through your complaints procedure for employees if they think they have received unfair treatment in the workplace? How would an employee start the procedure? Who would they tend to go to first?

IF RECEIVED FORMAL COMPLAINTS / HAD INFORMAL DISCUSSIONS ABOUT TREATMENT DURING PREGNANCY / ON MATERNITY LEAVE OR WHEN RETURNING FROM ML (ASK IF NOT SURE)

- What has been the nature of any formal complaints raised by pregnant employees / those on or returning from maternity leave?
- What about more informal discussions where pregnant employees / those on or returning from maternity leave have wanted to discuss feeling unfairly treated?
- What are your organisation’s procedures for dealing with these complaints or problems raised? How do you work to get issues resolved?
 - Who is involved in the procedures? What is the role of line managers in this?

Ask for a specific example (preferably of a formal complaint) to discuss in detail.

- What was the nature of the complaint?
- What happened as a result? How / who resolved this, and with what outcome?
- Do you think there is anything that might prevent women coming forward when they may otherwise want to raise issues about their treatment?
 - If so what?
 - **Who might be reluctant? Why?** PROBE: [e.g. length of service, seniority, age, type of contract]

IF HAVE NOT RECEIVED FORMAL COMPLAINTS / HAD INFORMAL DISCUSSIONS

- Within your organisation do you think there is anything that might prevent pregnant employees / those on or returning from maternity leave coming forward with a complaint when they may otherwise want to?

IF HESITANT OR UNSURE, ADD: In the mother's survey, it was quite common for women to feel that they had been unfairly treated at some stage from pregnancy to returning to work, whereas most employers said they had received no formal complaints nor had informal discussions about unfair treatment from pregnant employees or those on or returning from maternity leave

- **What do you think might explain this difference?** PROBE: [e.g. length of service, seniority, age, type of contract]

I Tribunals

IF AWARE OF RISE IN EMPLOYMENT TRIBUNAL FEES

- What are your thoughts about the rise of employment tribunal fees from July 2013? Do you think this has had, or will have, any effect on your organisation? Your employees?
- Thinking generally, do you think this has had or will have any effect on the way employers deal with complaints raised by staff about unfair

treatment? If so, how?

J General attitudes towards pregnancy and maternity in the workplace

ASK IF STATED THAT BURDEN OF PREGNANCY AND MATERNITY IS SIGNIFICANT AND PLACES BURDEN ON ORGANISATION

- In the survey you said that the cost burden of pregnancy and maternity is significant and places an unreasonable burden on your organisation. What specifically makes the cost burdensome? What is the impact of this for you as an organisation?
- Are you aware that the organisation can claim back Statutory Maternity Pay? (Do you always do so? IF NO: why not?)

ASK IF STATED THAT PREGNANT EMPLOYEES ARE NOT AS COMMITTED AS OTHER MEMBERS OF TEAM (ASK ALL IN FINANCE SECTOR)

- During the survey, some employers stated that “Pregnant employees are not as committed to work as other members of the team”.
 - What do you take ‘committed’ to mean in this context? (hours worked / their career ambitions etc.)
 - Is this something you have had experience of? What impact has this had?
 - How is this managed?
 - Does it vary from employee to employee?

ASK IF STATED THAT SOME PREGNANT WOMEN ABUSE THEIR RIGHTS

- In the survey, you mentioned that you felt some pregnant women had abused their rights. Can you tell me a bit about this?

ASK ALL

- Have you ever had experience of women abusing their rights while they have been on or returning from maternity leave?

IF YES:

- Again, can you tell me a bit about this?
- In what ways did you feel rights were abused?
- Have you ever had experience of women abusing their rights while they have been on or returning from maternity leave?

ASK IF NOT COVERED

- Thinking about the ease of managing all the issues relating to managing pregnancy and maternity in the workplace that we have discussed, does this differ depending on level of seniority or job role of the woman at all? Does your organisation have different approaches to managing pregnancy depending on level of skill of employee?
 - Do you have more / less difficulty managing issues for high / low skilled employees?
 - How, if at all, does the impact on the organisation differ across these two groups of employees?

Wrap up

W1) Thinking about the current legislation surrounding pregnancy and maternity in the workplace, which aspects do you feel don't work very well currently (PROBE REASONS WHY):

- For the employee
- For the employer

W2) What changes would you like to see regarding pregnancy and maternity legislation from your perspective as an employer?

W3) Is there anything else you'd like to add that hasn't been discussed?

(CHECK IF NOT ALREADY CLEAR)

W4) And can I just check, do you have children of your own?

[IF ASKED: we're just wondered if attitudes differ by whether respondents have children themselves or not).

Yes	1
No	2

ASK ALL

W5) And would you be happy for us to pass a transcript of this interview to BIS or EHRC, on an anonymised basis, i.e. with any identifiers removed?

Yes – happy for us to go ahead	1
Yes – as long as they see the script first	2
No	3



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BIS/16/147