

# **Pregnancy and Maternity Working Group**

## **Update on Actions – 2017**



The Pregnancy and Maternity Working Group was set up towards the end of 2016 in response to the research published by the Equality and Human Rights Commission (EHRC) and Department for Business, Innovation and Skills (BIS) which examined the prevalence and nature of pregnancy and maternity discrimination and disadvantage in the workplace.

The working group has a remit to create guidelines for employers to ensure best practice, as well as improving access to guidance for pregnant women and new mothers

Since its inception four meetings have been held, these took place on 06 December 2016, and 07 March, 14 June and 31 October 2017.

As we embark on a new year I feel it is timely to reflect on our work achieved to date; review the existing work plan and turn our thoughts to those areas we should seek to take forward over the course of 2018.

**Jamie Hepburn, Minister for Employability and Skills.**

### Scottish Government Commitments

#### **(1) Create guidelines, or review and embed existing guidelines, for employers to ensure best practice on recruitment, retention, and development of pregnant employees**

A number of presentations on guidelines and best practice have been delivered throughout the year at working group meetings, including:

- An overview of BTs pregnancy and maternity policies and guidance;
- The role of ACAS and data relating to maternity and pregnancy matters;
- An insight into the work being undertaken by Maternity Action;
- The pregnancy and maternity leave policy within Lloyds Banking group;
- Growing up in Scotland's Maternal Employment Research detailing the progress made in helping more women return to work after having children; and
- Health & Safety pregnancy and maternity related policy within Police Scotland.

The Working Group have considered the extensive range of advice available to employers and employees. The following suite of toolkits produced by EHRC for employers and employees on pregnancy and maternity is available on their website and it also now available on the Scottish Business Pledge website:

- [Pre-pregnancy and pregnancy employer toolkit](#)
- [Maternity, paternity or shared parental leave and pay employer toolkit](#)
- [After maternity or adoption leave employer toolkit](#)
- [Adoption, paternity or shared parental leave for adoptive parents and pay employer toolkit](#)

- <https://www.equalityhumanrights.com/en/help-and-support-employees/fags-employees>

The Working Group have also explored advice and guidance available to employers and employees through the following organisations:

- Advisory, Conciliation and Arbitration Service (ACAS) on how employers can support employees through pregnancy and maternity and on how employees can making a claim for pregnancy and maternity discrimination - <http://www.acas.org.uk/index.aspx?articleid=5271>
- Maternity Action who provide online advice and guidance to employees;
- Healthy Working Lives who provide a range of advice for employers and employees via their website <http://www.healthyworkinglives.com/advice/Legislation-and-policy/employee-issues/maternity-paternity#new>; advice phone line 0800 019 2211; and training events for businesses; and
- The Federation of Small Businesses (FSB) provision of pregnancy and maternity advice to their members. This includes a risk assessment template which is intended to help businesses comply with their legal requirements.

In addition to reviewing the availability of advice and guidance the working group have also been actively promoting it and sharing examples of good practice to employers around Scotland.

Cosla's Heads of HR are linking with the private sector to share good practice; going forward they will prepare a report on this piece of work which will be shared with the working group.

As a result of the presentation provided by Lloyds Banking group they were invited to share their best practice with businesses participating in the Scottish Parliament's 11th Business in the Parliament Conference in September 2017. A discussion paper for the Conference's workshop on inclusive employment practices also provided an opportunity to highlight the range of advice and guidance available to employers.

The working group have noted the important role that Trade Union representatives can have in promoting positive pregnancy and maternity policies. The EHRC has a guide available for Trade Union representatives.

Following Phase 2 of the Enterprise and Skills Review, work is now underway to provide a more coordinated system of business support that is designed around and focussed on the user. This will make it simpler and quicker for businesses to access the support they need throughout their growth journey. Going forward the working group will continue to engage with this work.

The EHRC have launched a nationwide campaign called 'Working Forward' which aims to make workplaces the best they can be for pregnant women and new parents. Almost 300 businesses have signed up since 2016, of which 8 are Scottish.

## **(2) Include best practice in managing pregnancy and maternity appropriately within the Scottish Business Pledge**

The Scottish Business Pledge is a values-led partnership between Government and business. It is a shared ambition of boosting productivity, competitiveness, sustainable employment, and workforce engagement and development. Inclusion of pregnancy and maternity advice can be found on the [Scottish Business Pledge website](#). The Scottish Government, its agencies and partners including members of the working group continue to signpost and promote this guidance to businesses.

A guest blog by Rosalind Bragg, Director, Maternity Actions, was published on International Women's Day, ['Taking action on pregnancy discrimination'](#)

A survey of those businesses who have committed to the Scottish Business Pledge was carried out in Autumn 2017 to gain a better understanding of the impact of the Pledge. The working group will consider the findings within this report when it is published in the coming months.

## **(3) Strengthen employer advice to ensure that work environments are safe and healthy for pregnant women and new mothers, including providing employment rights information**

In support of this commitment the Scottish Government and EHRC have held a number of meetings with stakeholders such as Healthy Working Lives, Health & Safety Executive, NHS Scotland and liaised with other policies across the Scottish Government which focus on the Best Start Grant, Partnership Information Network (PIN) and Health Care Service Users and Fit For Work.

As a result of these meetings work is underway to ensure websites such as Ready Steady Baby, NHS Inform and The Parent Club, that are targeted at supporting pregnant women and new mothers, include links to the relevant pregnancy and maternity guidance such as those published by EHRC and ACAS. The ACAS Helpline and Website is used regularly by both employers and employees seeking advice on employment rights associated with pregnancy and maternity.

The working group have also been keen to explore other options for promoting the available advice and guidance to pregnant women and new mothers. A revised maternity certificate (form MATB1) is due to be rolled out across the UK in the coming weeks and will now include links to the UK Government's webpage on pregnant employee rights. We are reviewing and consolidating the pregnancy and maternity discrimination pages on GOV.UK

Healthy Working Lives, who provide advice on controlling risks for new and expectant mothers, have arranged training events on improving health and safety awareness and risk assessments for employers. The working group have requested that they consider ensuring future training events cover specific issues relating to pregnancy and maternity. Going forward Healthy Working Lives are considering their range of resources for employers and have stated that they would be happy to liaise with the working group to help shape these resources.

Working Group members have also considered Healthy Working Lives policies relating to this commitment.

Following research conducted by the Scottish Women's Development Forum Police Scotland updated their standard operating procedures to ensure consistency of support across the organisation and developed Risk Assessment guidance and a Pregnancy and Maternity Information booklet to support managers and staff.

Police Scotland have also created a National Flexible and Agile working group and within Ayrshire run Keeping in touch (KIT) day events. Pregnant officers and staff (and those on maternity leave) are invited to attend and are given the opportunity to catch up with supervisors/management and to speak to HR and Finance regards any concerns/questions they have, as well as hear about changes in the organisation or training/job opportunities.

COSLA have reported pregnancy and maternity policies are in place to provide managers with clear processes for ensuring safe, healthy working environments for pregnant women working within local authorities. This has resulted in 47% of Councils having been awarded the Healthy Working Lives gold accreditation and a further 33% of Councils have gained either silver or bronze accreditation which support them in developing health promotion and safety themes in the workplace in a practical, logical way, that's beneficial to both employers and employees.

#### **(4) Improve public monitoring and reporting of pregnancy and maternity under the Scottish Public Sector Equality Duty.**

The latest Public Sector Equality Duty (PSED) report, Measuring Up 7, was published on 08 December 2017 by the EHRC. Employment is a key theme of the Duty and authorities are required to take steps to gather and use employee information. Its conclusions are in line with those of past years, that despite there being high levels of compliance with the duty's reporting requirements there are some notable gaps. In particular many bodies continue to struggle to produce employee information across the employment areas of recruitment, development and retention and most authorities have failed to fully meet the new requirements on occupational segregation reporting in relation to race and disability.

One of the report's conclusions was that pregnancy and maternity is still one of the characteristics that is least often reported on in relation to employee compositions. With regard to employee recruitment the reporting rates for pregnancy and maternity were also poor with only 8% of respondents reporting on recruitment for this protected characteristic.

The report highlights that authorities have cited a number of reasons for why there has been difficulty in performance. These include dwindling resources, difficulties in securing senior buy in and a reluctance from employees to disclose sensitive personal data. Some of these reasons have also been discussed during working group meetings.

A key recommendation of the report is that the Scottish Government should work with the EHRC and other partners to assess the effectiveness of the public sector equality duty in delivering change. Given the time that has elapsed since the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 were introduced and changes in equality legislation (such as the planned commencement of the socio-economic duty in 2018) the Scottish Government is committed to reviewing the implementation of the public sector equality duty, with a view to bringing any changes into effect in 2019. Going forward the Scottish Government will update the working group on this review.

One positive from the report was an acknowledgement that there is a range of guidance and tools available to public authorities to enable effective performance. The working group may wish to consider what role it can play in helping to promote use of this guidance and to share best practice amongst public authorities.

Some of the reasons cited in the report relating to performance and possible solutions for improvement have also been discussed during working group meetings.

During the working group's considerations Police Scotland reported ongoing work to improve monitoring and reporting. This has been circulated to the working group members for them to consider in relation to their own working practices.

#### **(5) Develop an industry specific communications strategy around the benefits of positive pregnancy and maternity policies**

The Scottish Government have led on developing a communications strategy around the benefits of employers having positive pregnancy and maternity policies. This details forthcoming events where positive pregnancy and maternity messages, tailored to appropriate sectors and audiences, are being included within Ministerial speeches, stakeholder events or related media channels. As part of this strategy a workshop at the Business in the Parliament event, as previously mentioned, was used to specifically show case the benefits of pregnancy and maternity benefits as well as other inclusive workplace practices such as flexible working.

Family Friendly Working Scotland have also played an important role in delivering this commitment, particularly in relation to changing workplace cultures and promoting the development of family-friendly working across Scotland. They have arranged seminars, conferences and training for employers that provide an opportunity for them to hear and share best practice .

In recognition of the pregnancy and maternity related issues faced by employees and employers in certain sectors, as identified with the EHRC's report, the working group has helped to shape and draft the criteria of the Workplace Equality Fund (WEF). The WEF which was opened to applications on 08 February 2018 is aimed at supporting businesses to identify and promote practice that works to reduce employment inequalities, discrimination and barriers.

In response to the Scottish Government commissioned research into women in the farming and agricultural sector, which was published in June 2017, a Scottish Government co-chaired Taskforce has been established. The Taskforce is looking at issues relating to better succession planning, more appropriate health and safety, better access to training and progression within the industry. A paper has been provided to this Taskforce on issues relating to pregnancy and maternity which highlighted the available advice and guidance.

Going forward the working group will continue to work with the Taskforce and look for other opportunities to help develop other sector specific advice.

#### **(6) Monitoring and Evaluation**

The working group have been keen to explore how progress can be measured.

As part of this process the Coalition of Care and Support Providers in Scotland (CCPS) designed a survey process to explore and identify barriers to good practice. Findings from the 47 participants were shared amongst the working group. These indicated that respondents felt that their duties, mainly as a result of a health and safety risk assessment, had been adapted or altered to take account of pregnancy. Changes to duties, as a result of staff requests and risk assessments, also occurred once there was a return to work. However the survey flagged up that there was a resourcing issue around flexible working and that limited Statutory Maternity Pay (SMP) was an issue, with 84% being in favour of a

fund to help claim back SMP in the third sector. Some participants thought that there is a need for reduced cost/tax breaks to help with child care rather than there being a need for more advice and guidance for the sector while other respondents indicated a need for changes and improvements to guidance on pregnancy and maternity issues for third sector organisations. Around half of the respondents sought advice and guidance externally from sources including law firms, HR consultancy services, and websites including ACAS.

In recognition of the role law firms play as a source of information to employers, I recently spoke at the Discrimination Law in 2018 Conference and highlighted the importance of tackling pregnancy and maternity discrimination in the workplace.

The Scottish Government funded the Growing Up in Scotland Maternal Employment research which was published on 01 November 2017, <http://www.gov.scot/Publications/2017/11/6970/0>. This explored changes to mothers' employment status and trajectories over the first five years of their child's life, examining the characteristics of mothers unable to find paid work and the main barriers they face. It also identifies a number of characteristics and circumstances which appear to be associated with an increased likelihood of mothers giving up paid work after having a child and not returning within five years. Key findings included:

- An increase in mothers with young children who are in paid work, but still a small group facing barriers to securing work;
- Supporting mothers may include addressing issues around childcare and the quality of jobs – especially low-skilled jobs;
- Mothers in less advantaged circumstances may be in particular need of support – e.g. young, single parents, with low levels of skills and qualifications; and
- Mothers' needs are complex and diverse – requires holistic approach

Supporting mothers who want to enter, re-enter, or remain in paid work after childbirth is an important objective for the Scottish Government. It ties in with wider efforts to address the gender pay gap and eliminating child poverty. Both of these are key components of the Scottish Government's aim to create a Fairer Scotland. The working group have been updated on the number of policies and interventions that are in place, or being developed, which seek to help facilitate women's engagement in paid work after childbirth and/or overcome barriers to maternal employment. The findings from the working group have also fed into the development of a pilot scheme aimed at reducing the burden of upfront childcare costs for families, focussing on a deposit guarantee scheme.

## **Conclusion**

Over the course of last year the working group have noted a number of common topics and the themes coming through from our discussions include:

- The need to continue to make employers and line managers aware of pregnancy and maternity policies, as well as how best to support their employees;
- The benefits to the organisation and employee of flexible working on return from maternity leave, such as tackling skills shortages by retaining staff and the importance of normalising flexible working practices;
- The encouragement of staff to keep in touch and the importance of businesses using these procedures effectively;
- The importance of using positive language and encouraging best practice;
- The identification of sectors seeking specific guidance, for example third sector, construction and agriculture; and
- The value in continuing to explore options for ensuring women know their rights and where to find guidance and support.

We have made progress against many of the commitments particularly in relation to making guidance/advice more accessible and available to pregnant women, new mothers and employers about rights and responsibilities within the workplace. Throughout 2018 I am keen to continue working with group members to build on this progress, consider how we can work together to tackle the issues raised around PSED reporting and look at achieving sector specific support.