
Pregnancy and Maternity Guidance and Toolkit Equality and Human Rights Commission

RPC rating: validated

The assessment is now fit for purpose as a result of the department's response to the RPC's initial review. As first submitted, the assessment was not fit for purpose.

Description of proposal

The Equality and Human Rights Commission (EHRC) has recently brought together its web-based guidance on pregnancy and maternity. This is aimed at helping employers to comply with their obligations under the Equality Act 2010 in relation to pregnancy and maternity-related discrimination. The guidance includes:

- an online guide/FAQs for employers about their legal obligations;
- toolkits for SMEs to assist employers in complying with the legislation; and
- examples of existing good practice by business.

Impacts of proposal

The guidance is aimed at all employers. A total of approximately 1.3 million businesses are estimated to be in scope of the legislation to which the guidance refers. The guidance is not, however, mandatory and other sources of advice are available.

Familiarisation costs

Given the nature of the guidance, it is reasonable to expect businesses to familiarise themselves with the guidance when pregnancy and maternity issues arise. The regulator assumes that approximately 1,000 businesses will use the guidance each year over the ten-year period of the assessment. This assumption is based on the 1,038 unique views of the guidance on the EHRC website in the first 12 months.

The guidance replaces older pregnancy and maternity guidance, which was spread out over the web and involved considerable search costs to locate. Familiarisation costs, however, are estimated to increase by just over £32,000 per year (from £133,000 to £165,000) because more businesses will be able to find the material to familiarise themselves with. This assumption is based on feedback from businesses,

discussions with policy experts, and difficulties experienced by EHRC's own contractor in locating the previous guidance in order to bring it together.

Policy Benefits

The new web materials also provide templates and checklists for use by businesses. The EHRC assumes that 14 per cent of the employers who make use of the guidance each year will save half an hour as a result of using the standardised model letters provided. This assumption was developed through discussions with policy experts and an external contractor. This results in a saving of approximately £1,700,00 per year.

The regulator expects the guidance to also reduce the level of external legal advice that employers seek on their obligations under the Equality Act, however, they have been unable to quantify these savings due to data limitations.

Wider Impacts

The assessment includes a description of expected indirect benefits of the policy. The benefits are savings from prevented discrimination relating to pregnancy and maternity in the workplace. It is expected that this form of discrimination would have resulted in a cost to employers, a cost to women forced to leave their job as a result of this type of discrimination, and a cost to the State. The assessment cites estimates for the impact of pregnancy and maternity discrimination in the workplace, but does not quantify the expected indirect impact of the policy.

Quality of submission

The original assessment of the impact of this guidance included an attempt to quantify savings from legal advice, which were estimated to have resulted in substantial savings to business. However, these estimates were not based on sufficient evidence. Following the RPC's initial review, EHRC was asked to seek further evidence or external validation to support the high level of expected legal savings.

The assessment does not quantify the savings from legal advice due to the lack of evidence. The assessment would have benefitted from an attempt to gather data from businesses to quantify the saving. However, the regulator argues that it would not have been proportionate to consult on the legal savings, given the small size of

the impact. It would have been helpful if the regulator could have supplied a clearer justification for this position. The assessment also assumes that the number of businesses using the guidance each year over the ten-year period, 1,038, will remain constant. The assessment would have benefitted from further justification of this assumption, and an explanation of why the total benefit (including legal savings) is not expected to be at least equal to familiarisation costs.

Despite the unsupported assumption that the number of businesses familiarising themselves with the guidance each year is constant, it is likely that the EANDCB remains accurate. The net cost of the policy is estimated to be £32,000 and is rounded to zero in EANDCB terms. If the number of businesses familiarising themselves with the guidance decreases as more businesses become familiar, the net cost of the policy will still round to zero in EANDCB terms.

Departmental assessment

Classification	Qualifying regulatory provision
Equivalent annual net direct cost to business (EANDCB)	-£1.4 million (initial estimate) Zero (final estimate)
Business net present value	-£0.28 million

RPC assessment

Classification	Qualifying regulatory provision
EANDCB – RPC validated ¹	Zero
Business impact target score ¹	Zero
RPC rating (of initial submission)	Not fit for purpose



Anthony Browne, Chairman

¹ For reporting purposes, the RPC validates EANDCB and BIT score figures to the nearest £100,000.