

# 20 New and Expectant Mothers

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## Introduction

1. This chapter sets out the MOD procedures and guidance for managing the health and safety risks to women who are of childbearing age, pregnant, or are new mothers in compliance with the Workplace Health, Safety and Welfare Regulations (Reg 25) and the Management of Health and Safety at Work Regulations (Regs 16 and 18); where:

- a. a new mother is defined as someone who:
  - (1) has given birth, having delivered a living child within the previous six months (or, after 24 weeks of pregnancy, a stillborn child); or
  - (2) is breastfeeding.
- b. a baby is defined as:
  - (1) the unborn child;
  - (2) a child up to the age of six months; or
  - (3) a child that is breastfeeding.

2. The Management of Health and Safety Regulations require that special attention is given to identifying and controlling risks at work to protect the health and safety of new and expectant mothers and their babies. This means that consideration must be made not only to the specific hazards but also to the health-related aspects of pregnancy that could be exacerbated by the work or the workplace. A breach of Management of Health and Safety Regulations may in addition be unlawful discrimination under the Equality Act, depending on the circumstances<sup>1</sup>.

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<sup>1</sup> There is no length of service qualification, and the Act gives protective rights to a broad range of employees including contract (or agency) workers and apprentices. A breach of the Equality Act could give rise to civil liability

3. Many of the risks to new and expectant mothers at work are already covered by existing legislation, and control measures should already be in place. However, written risk assessments of the work environment, materials and activities, to ensure that appropriate protection is offered to the mother and baby are required.

4. Many hazards in the workplace can affect the health and safety of new and expectant mothers and their babies and therefore working conditions, normally considered acceptable, may no longer be suitable.

## **Roles and Responsibilities**

### **Commanding Officer (CO) / Head of Establishment (HoE)**

5. The CO / HoE must ensure that suitable rest facilities (e.g. near to toilets) are made available for expectant mothers or mothers who are breastfeeding and where necessary should provide appropriate facilities for the new or expectant mother to lie down; this facility should include a safe environment for expressing, and for the storing of milk.

### **Managers**

6. Your workplace risk assessment (JSP 375, Volume 1, Chapter 8) should already consider any risks to female employees of childbearing age (as pregnancy usually goes undetected for the first few weeks) and, in particular, hazards and risks to new and expectant mothers (for example, from working conditions, or the use of physical, chemical or biological agents). Any risks identified must be included and managed as part of the general workplace risk assessment.

7. Having been formally notified of a pregnancy, the manager must ensure activities carried out within their area of responsibility which may pose a significant risk to a new or expectant mother and / or her baby are reviewed, and that action is taken to minimise the potential for harm from those activities where appropriate (i.e. specific individual assessment).

8. In assessing risks to new or expectant mothers, managers need to ensure that the person(s) carrying out these specific assessments are competent and able to take due account of all relevant information.

9. Managers should keep all risk assessments for new and expectant mothers under constant review. Although hazards are likely to remain constant, the identified risks to the mother and the unborn child will vary during the different stages of the pregnancy as dexterity, agility, co-ordination, speed of movement, and reach may be impaired<sup>2</sup> Managers can also consult their local health and safety adviser, the TLB Safety Centre (SC) or Chief Environment Safety Officer (CESO); or the Service Medical Centre for Service personnel, and DBS-People Services for civilian personnel.

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<sup>2</sup> For further information and advice see: HSE's Expectant Mother Advice page.

10. It is important that the new or expectant mother is involved with the assessment; particularly to take account of any medical advice she may have received from her medical adviser (for example GP or midwife). Particular attention should be paid to the actual tasks that they have to perform during their work to ensure that any risk associated with these is adequately controlled. This should be regarded as an ongoing process throughout the course of the pregnancy as the capabilities of the person involved may be significantly reduced as the pregnancy progresses (e.g. problems with manual handling). The nature of the tasks they are required to do may also have to be temporarily modified accordingly and, in some cases, there may be a need to remove them from the task(s) completely.

11. If the assessment identifies risks to an expectant mother or her baby that cannot be avoided or otherwise adequately controlled, then the manager should take the following action:

- a. temporarily adjust the expectant mother's working conditions and / or hours of work; or if it is not reasonable to do so, or would not avoid the risk;
- b. offer her suitable alternative work (at the same rate of pay) if available; or if that is not feasible; and
- c. provide her with paid leave for as long as necessary to protect her health and safety, and that of her baby.

12. Where a new or expectant mother works nights and she provides a medical certificate from her GP or midwife which says that working night shifts will affect her health, then the manager must offer her suitable alternative work. If no suitable alternative work is available, the manager should consider paid leave for as long as is necessary.

13. The confidentiality concerning a woman's pregnancy means the manager must not make it known that she is pregnant if she does not wish for it to be known or if she does not consent to it. Exceptionally, where the actions of other members of staff may adversely affect the health and safety of a pregnant woman, it may be necessary to take steps (including limited disclosure) to protect her, but this must be done with the woman's agreement following consultation.

## **All Personnel**

14. Formal written notification (as early as possible) should be provided to the manager of becoming or planning to become a new or expectant mother to ensure that reasonable adjustments can be made to safeguard their health and safety and that of their babies. Any concerns relating to health and safety at work due to being a 'new or expectant mother' should be brought to the attention of the manager concerned.

15. New mothers should inform their manager in writing if they intend to continue breastfeeding after their return to work; this will allow for risk assessments to be

reviewed and remain current for the duration of breastfeeding or for six months after the birth whichever is greater<sup>3</sup>.

## **Retention of Records**

16. All records including Risk Assessments, etc. should be kept in accordance with JSP 375, Volume 1, Chapter 39.

## **Related Documents**

17. The following documents should be consulted in conjunction with this chapter:

a. JSP 375, Volume 1:

- (1) Chapter 02 - Office & General Workplace Safety;
- (2) Chapter 08 - Risk Assessment;
- (3) Chapter 10 - Manual Handling;
- (4) Chapter 11 - Management of Hazardous Substances;
- (5) Chapter 12 - Display Screen Equipment; and
- (6) Chapter 39 - Retention of Records.

b. Other MOD Publications:

- (1) DSA01.1 – Defence Policy for Health, Safety and Environmental Protection;
- (2) DSA01.2 Chapter 2 – Requirement for Safety and Environmental Management Systems in Defence;
- (3) DSA01.2 Chapter 4 – Risk Management in Health, Safety & Environmental Protection;
- (4) DBS -People Pages - Maternity Leave;
- (5) DBS - People Pages – Reasonable Adjustment;
- (6) AP1269A - Tri-service aviation medicine standards & clinical policies; and
- (7) JSP 392 – Management of Radiation Safety in Defence.

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<sup>3</sup> Further information is available in HSE leaflet INDG373 (A Guide for new and expectant mothers who work).

c. Legislation and Guidance:

- (1) [HSE ACoP L24 – Workplace health, safety and welfare Regulations;](#)
- (2) [Management of Health and Safety at Work Regulations;](#)
- (3) [Employment Rights Act;](#)
- (4) [Equality Act;](#)
- (5) [HSE - INDG373 \(A Guide for new and expectant mothers who work\);](#)
- (6) [HSE Expectant Mothers Advice Page.](#)