



UK Government

Make Work Pay:

**Enhanced dismissal protections for
pregnant women and new mothers**

23 October 2025

Closing date: 15 January 2026

Ministerial foreword

The government's Plan to Make Work Pay will transform how working people are supported across the country. It will boost fairness in the workplace, ensure equality of treatment and opportunity and strengthen the rights of workers. In doing so, the Plan to Make Work Pay will help more people stay in work and make work more secure and family friendly.

Every parent deserves to feel secure at work, and that includes ensuring that motherhood is not a barrier to staying in and progressing at work. Starting with the Employment Rights Bill, we are fulfilling our commitment to strengthen protections for pregnant women and new mothers. Through regulations, we will introduce legislation that will make it unlawful to dismiss pregnant women mothers on Maternity Leave, and mothers for at least six months after they return to work - except in specific circumstances.

We need to consider how these enhanced dismissal protections should work in practice and are seeking views on this via this consultation. We want this change to combat pregnancy and maternity discrimination, to support mothers to realise their full potential at work, and to be easy and straightforward for employers to understand and implement.

The Plan to Make Work Pay and Employment Rights Bill illustrate our wider commitment to supporting women at work. Making flexible working the default; undertaking a landmark review of the parental leave and pay system; expanding gender pay gap reporting; and these enhanced dismissal protections will transform the lives of working women.

Thank you for taking the time to read and respond to this consultation; your views and insights will be invaluable to making this reform a success. In doing so, you are helping us build a stronger, more inclusive economy that delivers for everyone. I look forward to reading your responses.



The Rt Hon Peter Kyle MP

*Secretary of State for Business and
Trade and President of the Board of
Trade*



The Rt Hon Kate Dearden MP

*Minister for Employment Rights,
Competition and Markets*

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Introduction

1. The government is taking steps to improve employment protections to ensure workplace rights are fit for the modern economy. The Plan to Make Work Pay made a commitment to strengthen dismissal protections for pregnant women and new mothers. For the purposes of this consultation, we are defining 'new mothers' as those who have given birth in the last 18 months.
2. It is unlawful to discriminate against women because they are pregnant or because they are, or have been, on Maternity Leave. Yet such discrimination remains far too prevalent.
3. A 2016 report by the Equality and Human Rights Commission (EHRC) found that 11% of new mothers felt forced out of their jobs - either because they were treated so poorly they felt they had to leave (9%), were dismissed (1%), or were made compulsorily redundant (1%).
4. While legal protections against dismissal related to pregnancy and maternity already exist - and were strengthened in 2023/24 to include enhanced redundancy protections - many expectant and new mothers continue to report experiences that suggest unfair treatment persists.
5. This is deeply concerning and highlights the need for further action. That is why this government will put in place legislation that makes it unlawful to dismiss pregnant women, mothers on Maternity Leave, and mothers who return to work for at least a six-month period after they return ('the protected period') – except in specific circumstances. This reform starts with the Employment Rights Bill, with regulations to follow setting out the policy detail.
6. This consultation considers what those specific circumstances should be, i.e. situations where employers should still be permitted to fairly dismiss individuals within this protected group.
7. Currently, employment law recognises five potentially fair reasons for dismissal:
 - a. **Conduct** – where the employee's behaviour is unacceptable.
 - b. **Capability** – where the employee is unable to perform their job duties satisfactorily.
 - c. **Redundancy** – where the role is no longer needed.
 - d. **Statutory Prohibition** – where continuing the employment would break the law.
 - e. **Some other Substantial Reason** – such as an irreparable breakdown in working relationships or a conflict of interest.

8. If an employer can demonstrate that the reason for dismissal falls within one of the recognised categories, the dismissal may be considered fair. However, it will ultimately be for an Employment Tribunal to determine whether, in the specific circumstances, it was fair for the employer to dismiss for that reason.
9. This consultation seeks views on whether each of these existing grounds should continue to apply to pregnant women and new mothers in their current form; whether the availability of each of those reasons should be narrowed and/or some removed entirely; or whether a new, tailored test should be introduced to assess the fairness of dismissals for any of the five reasons.
10. That is why we are undertaking this consultation, to understand:
 - a. What those 'specific circumstances' for being able to dismiss a pregnant woman or new mother fairly should be;
 - b. When the protections should start;
 - c. Any potential unintended consequences attached to the policy and how to mitigate against any of these;
 - d. How to best support businesses through the change; and
 - e. Other detail regarding who should be covered by the policy and for how long.
11. While the policy commitment is concerned with specific protections against dismissal, we are also seeking views on additional action that could be taken to tackle any workplace disadvantage triggered by pregnancy and maternity, and to support women who have experienced this.
12. We encourage all respondents to answer as many consultation questions as they feel comfortable with. We understand that some questions may involve complex topics - such as employment law or business operations - that might not feel directly relevant to those sharing personal experiences. Please feel free to respond to any questions that resonate with you and skip those that don't. Skipping questions will not affect how your other responses are considered.
13. Lastly, individuals who are pregnant, have experienced pregnancy or are returning to work following pregnancy, pregnancy loss, or childbirth are biologically female and most will refer to themselves using terms such as 'pregnant woman'. However, some individuals who experience pregnancy may identify as trans men or non-binary and prefer terms such as 'pregnant person'. This policy and consultation are inclusive of all individuals who experience pregnancy. This document will use 'pregnant woman' or 'new mother' for simplicity and brevity, to refer to the person who is or was pregnant.

Consultation details

Issued: 23/10/2025

Respond by: 11:59pm 15/01/2026

Enquiries and Responses to:

enhanceddismissalprotections@businessandtrade.gov.uk

Write to:

Women's Workplace Protections & Support, Employment Rights Directorate
Department for Business and Trade
Old Admiralty Building
Admiralty Place
London
SW1A 2DY

Consultation reference: Enhancing dismissal protections for pregnant women and new mothers.

Audiences:

- businesses
- trade unions
- business groups or representatives
- consumers
- workers/employees
- non-governmental organisations
- members of the public
- all other interested parties

Territorial extent: This applies to England, Wales and Scotland. Employment law is devolved to Northern Ireland.

How to respond

Respond online at:

https://ditresearch.eu.qualtrics.com/jfe/form/SV_3eLMZj8Yogjm1Bc If you have any queries, please contact Surveys@businessandtrade.gov.uk

Email to: enhanceddismissalprotections@businessandtrade.gov.uk

or

Write to:

Women's Workplace Protections & Support, Employment Rights Directorate
Department for Business and Trade
Old Admiralty Building
Admiralty Place
London
SW1A 2DY

We strongly encourage that responses are made via the online platform. Using the online survey will assist our analysis of the responses, enabling more efficient and effective consideration of the issues raised.

If you are responding in writing, please make it clear which question or paragraph number each comment relates to.

Your response will be most useful if it is framed in direct response to the questions posed, though further comments and evidence are also welcome.

When responding, please state whether you are responding as an individual or representing the views of an organisation.

Confidentiality and data protection

Information you provide in response to this consultation, including personal information, may be disclosed in accordance with UK legislation (the Freedom of Information Act 2000, the Data Protection Act 2018 and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please tell us, but be aware that we cannot guarantee confidentiality in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not be regarded by us as a confidentiality request.

We are trialling Artificial Intelligence (AI) solutions to support the delivery of our functions. Unless made expressly clear to you, we will not solely use AI to either make or inform decisions about you. We will apply effective data minimisation techniques to all such uses of your data.

Your responses, including any personal data, may be shared with a third-party provider, or other government department or organisation acting on behalf of the Department for Business and Trade under contract or an equivalent agreement, for the purpose of analysis and summarising responses for us and they may use technology, such as artificial intelligence. *Further detail on how AI is used, including its scope and safeguards and third party sharing is available in our Privacy Notice.*

An anonymised version of responses in a list or summary of responses received, and in any subsequent review reports may be published. We may also share your personal data where required to by law. You can leave out personal information from your response entirely if you would prefer to do so.

Wherever possible avoid including any additional personal data in free-text responses beyond that which has been requested or which you consider it necessary for DBT to be aware of.

We will process your personal data in accordance with all applicable data protection laws. See our [privacy policy](#).

We will publish a government response on GOV.UK.

Quality assurance

This consultation has been carried out in accordance with the government's [consultation principles](#). If you have any complaints about the way this consultation has been conducted, please email: enquiries@businessandtrade.gov.uk

About you

Please provide the following information to help us understand the context of your response.

Question 1: Please indicate whether you are responding as:

- ☐ An individual
- ☐ An academic, or on behalf of an academic or research organisation
- ☐ An employer
- ☐ A legal representative
- ☐ A business representative organisation (please specify)
- ☐ A trade union or staff association (please specify)
- ☐ A charity or interest group
- ☐ Other – please specify

Question 2: If responding as an employer, business, business owner or business representative, approximately what is the size of your business? If responding as an individual or worker, what size workplace are you employed in?

- ☐ Micro (1 to 9 employees)
- ☐ Small (10 to 49 employees)

- ☐ Medium (50 to 249 employees)
- ☐ Large (250+ employees)
- ☐ Don't know
- ☐ Not Applicable

Question 3: Which region are you located in?

- ☐ North-East
- ☐ North-West
- ☐ Yorkshire and The Humber
- ☐ East Midlands
- ☐ West Midlands
- ☐ East of England
- ☐ London
- ☐ South-East
- ☐ South-West
- ☐ Wales
- ☐ Scotland
- ☐ Northern Ireland

Question 4: What sector are you based in?

- ☐ Accommodation & food service activities
- ☐ Activities of households as employers; undifferentiated goods and services-producing activities of households for own use
- ☐ Administrative & support service activities
- ☐ Arts, entertainment and recreation
- ☐ Agriculture, forestry and fishing
- ☐ Construction
- ☐ Education
- ☐ Electricity, gas, steam and air conditioning supply
- ☐ Financial & insurance activities
- ☐ Human Health and social work activities
- ☐ Information & communication
- ☐ Manufacturing
- ☐ Mining and quarrying
- ☐ Production
- ☐ Professional, scientific and technical activities
- ☐ Public administration & defence; compulsory social security
- ☐ Real estate activities
- ☐ Services Sector
- ☐ Transportation & storage
- ☐ Water supply; sewerage, waste management and remediation activities
- ☐ Wholesale and retail trade; repair of motor vehicles and motorcycles
- ☐ Other service activities

Additional Questions

Please note that for the purposes of this consultation, 'new mothers' are defined as those who have given birth in the last 18 months.

Question 5: If you are responding as an individual, please indicate whether you are a/have been a:

- ☐ Pregnant woman or mother taking or having taken Maternity Leave
- ☐ Other new parent taking or having taken Adoption Leave, Shared Parental Leave or Neonatal Care Leave
- ☐ Neither

Question 6: If you are responding based on your experience as/having been a pregnant woman, new mother or other new parent, what is your age?

- ☐ 0 to 15
- ☐ 16 to 24
- ☐ 25 to 34
- ☐ 35 to 44
- ☐ 45 to 54
- ☐ 55 to 64
- ☐ 65 to 74
- ☐ 75 to 84
- ☐ 85 plus
- ☐ Prefer not to say

Question 7: If you are responding based on your experience as/having been a pregnant woman, new mother or other new parent, what is your ethnic group?

White

- ☐ English, Welsh, Scottish, Northern Irish or British
- ☐ Irish
- ☐ Gypsy or Irish Traveller
- ☐ Roma
- ☐ Any other White background

Mixed or Multiple ethnic groups

- ☐ White and Black Caribbean
- ☐ White and Black African
- ☐ White and Asian
- ☐ Any other Mixed or Multiple ethnic background

Asian or Asian British

- ☐ Indian
- ☐ Pakistani

- ☐ Bangladeshi
- ☐ Chinese
- ☐ Any other Asian background

Black, Black British, Caribbean or African

- ☐ Caribbean
- ☐ African
- ☐ Any other Black, Black British, or Caribbean background

Other ethnic group

- ☐ Arab
- ☐ Any other ethnic group
- ☐ Prefer not to say

1. Existing legal protections

Discrimination – Equality Act 2010

14. 'Pregnancy and maternity' are protected characteristics under the Equality Act. Unfavourable treatment (including dismissal) during or after a 'protected period' is unlawful discrimination, if that treatment is on the grounds of:
- pregnancy;
 - pregnancy-related illness suffered during that period; or
 - because a woman is or has been on Maternity Leave, or has tried to exercise her right to Maternity Leave.
15. The 'protected period' begins when a woman becomes pregnant and continues until she returns from Maternity Leave. If she is not entitled to Maternity Leave (for example, because her pregnancy ends before 24 weeks' gestation), the protected period ends two weeks after the end of her pregnancy.
16. That protection is specific in scope. However, any situation where a woman is treated less favourably (or harassed or victimised) for reasons which are to do with pregnancy or maternity, but which does not fall within the scope of that protection, will be covered by the protected characteristic of 'sex'. For example, the less favourable treatment of a woman because her employer thinks she is likely to become pregnant in future will be unlawful direct sex discrimination.

Unfair dismissal – Employment Rights Act 1996 and regulations made under it

17. It is automatically unfair dismissal to dismiss a woman (or select her for redundancy) if the reason for her dismissal or selection is:
- connected with her pregnancy;
 - connected with health and safety measures related to pregnancy or maternity;
 - because she is or was on Maternity Leave, or has tried to take Maternity Leave, or claimed any benefits associated with Maternity Leave; or
 - because of the fact that she has given birth, if she is dismissed whilst on Maternity Leave.
18. Dismissal is also automatically unfair if the employer has not complied with the enhanced protections against redundancy for pregnant women and new mothers (paragraphs 21 and 22).
19. If a woman is dismissed for reasons which are not related to pregnancy or maternity, she has the same protections against 'ordinary' unfair dismissal as any other employee. An employer can only dismiss an employee if it can prove that the reason was one of the five 'potentially fair' reasons, which are:
- **Conduct** – related to an employee's behaviour.
 - **Capability** - when an employee is unable to do their job due to poor performance or health issues.
 - **Redundancy** - when a role is no longer required, for whatever reason, e.g. business closure, restructuring or change in business needs.
 - **Statutory Prohibition** - when continuing employment would break the law.
 - **Some other Substantial Reason (SOSR)** - for other justifiable reasons not covered above.
20. A dismissal for one of these reasons will only be fair if the employer has acted reasonably in relying on that reason as sufficient to dismiss the employee in all the circumstances. This is known as the 'range of reasonable responses' test, and it includes both 'substantive fairness' (the decision must have been one that a reasonable employer might make) and 'procedural fairness' (the employer should follow an appropriate procedure before reaching a decision to dismiss).

Unfair dismissal – enhanced redundancy protection

21. If a pregnant woman or new mother is at risk of redundancy, there is another kind of special protection which applies. If the employer, or an associated employer, has a vacancy which is suitable and appropriate for her to take up, then that vacancy must be offered to her. If it is not offered, then a dismissal on the grounds of redundancy will be automatically unfair.

22. This protection applies during Maternity Leave and was extended in 2023/24 to also apply during pregnancy, and for a period after she returns to work. The protection now begins when her employer is informed of her pregnancy and ends 18 months after the birth of the child, if the woman takes Maternity Leave. If she does not take Maternity Leave (for example, because she is not entitled to it because her pregnancy ends before 24 weeks' gestation), then it ends two weeks after the end of the pregnancy. The protection during pregnancy is available to her from the first day of a new job, as long as her employer is aware that she is pregnant.
23. The same enhanced redundancy protection also applies to employees who take Adoption Leave and (as long as they take a minimum of 6 weeks' continuous leave) to those who take Shared Parental Leave or Neonatal Care Leave. In these cases, the protection ends 18 months after the date of the child's birth, or placement for adoption.

2. Evidence gathering

24. A 2016 report by the Equality and Human Rights Commission (EHRC) indicated that 11% of recent mothers interviewed left their jobs, with 9% citing poor treatment as the reason, 1% experiencing dismissal, and 1% being made compulsorily redundant when others in their workplace were not.¹ When extrapolated to the general population, these figures suggest up to 54,000 mothers may leave their jobs annually, including approximately 4,100 dismissals each year. This data illustrates potential challenges regarding job security for pregnant women and new mothers. Whether such treatment meets the legal definition of discrimination or unfair dismissal can only be determined by an Employment Tribunal.
25. Between 2007/08 and 2019/20, Employment Tribunals (in Britain) accepted between 1,200 to 1,900 pregnancy related dismissal and detriment claims annually. A dip in 2014/15 likely reflects the impact of tribunal fees introduced in 2013, with numbers rebounding after fees were removed in 2017.
26. More recently, Employment Tribunal data transitioned to a new database (Employment Case Management). The Reform system data includes single Employment Tribunal cases which is not comparable to previously published, jurisdictional data, which included legacy (single and multiple) data.

¹<https://www.equalityhumanrights.com/guidance/business/pregnancy-and-maternity-discrimination-research-findings>

27. Figures for 2023/24 show that there were 171 receipts under the ‘suffer a detriment or unfair dismissal due to pregnancy or maternity’ jurisdiction (single cases only). In 2024/25, the number of receipts increased by 380% to 820 - largely due to changes in how claims are recorded. These shifts make it difficult to draw firm conclusions from year-to-year figures.

28. Employment Tribunal data likely underrepresents the true scale of maternity discrimination. The EHRC (2016) found that out of the 22% of mothers who raise the problem regarding the unfair treatment they have experienced, only 1% lodged tribunal claims,² with many deterred by costs, fear of job loss, or the complexity of the process – especially during this period of their life. Disposals - cases closed through various means - generally mirrored receipts until 2021/22 but diverged thereafter, reflecting growing strain on tribunal capacity, exacerbated by the COVID-19 pandemic and system changes, and culminating in a sharp drop to just 128 disposals in 2022/23.

Table 1: Number of receipts (claims lodged in an ET) and disposals (judgments given/claims withdrawn/settled) in total and for the ‘suffer a detriment and/or dismissal on grounds of pregnancy, childbirth or maternity’ jurisdiction - 2007/08 to 2024/25³

Financial Year	Receipts		Disposals	
	Total Jurisdictional complaints	Suffer a detriment / unfair dismissal - pregnancy	Total Jurisdictional complaints	Suffer a detriment / unfair dismissal - pregnancy
2007/08	296,920	1,600	157,493	..
2008/09	266,542	1,835	172,944	..
2009/10	392,777	1,949	226,968	..
2010/11	382,386	1,866	243,952	..
2011/12	321,836	1,861	229,968	..
2012/13	332,859	1,589	225,896	..
2013/14	193,968	1,248	275,561	1,426
2014/15	129,966	790	386,465	955
2015/16	178,079	865	102,551	856
2016/17	143,946	872	88,922	779
2017/18	172,731	1,357	86,664	934
2018/19	198,715	1,810	94,332	1,239

²Pregnancy and maternity-related discrimination and disadvantage: experiences of mothers

³Employment Tribunal statistics, Jan to Mar 2025 <https://www.gov.uk/government/statistics/tribunals-statistics-quarterly-january-to-march-2025/>

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2019/20	175,389	1,636	110,663	1,344
2020/21	186,788	1,435	92,709	1,148
2021/22*	..	..	..	..
2022/23	137,282	1,259	..	..
2023/24**	6,307	171	3,504	128
2024/25	48,228	820	16,244	273

*Data is not available.

**Data from 23/24 onwards is not comparable to previous years due to changes in the ET recording system.

29. The Department for Business and Trade (DBT) has commissioned new analysis to identify indicators of potential discrimination and unfair treatment and monitor how discrimination manifests in practice. In the meantime, and as part of this consultation, the government is seeking views on the current protection framework and when and why pregnant women and new mothers are dismissed or treated unfairly to support the development of this policy proposal.

NOTE:

- Questions 1-6 are for those who are responding to this consultation based on their recent or past experiences as a pregnant woman or new mother only.
- As stated in the Introduction, 'new motherhood' is defined as those who have given birth in the last 18 months for the purposes of this consultation, however we welcome responses from women who have been a 'new mother' in the past.
- If you are responding as an employer / business representative organisation / trade union or staff association / academic / legal representative etc., please skip to question 7.
- Questions 9 onwards are for all respondents.
- If you have taken an extended family leave that isn't Maternity Leave (i.e. Adoption Leave, Shared Parental Leave or Neonatal Care Leave), questions 23-25 relate to your experiences.
- All questions should be answered based on experiences in Great Britain.

If you are responding based on your experiences as, or having been, a pregnant woman or a new mother only:

Question 1: Have you personally experienced dismissal or unfair treatment from your employer because of pregnancy or new motherhood?

- A. Yes.
- B. No – please skip to question 9.

C. Don't know.

Question 2: If 'yes' to question 1, please select all of the following that apply:

- A. I was dismissed.
- B. I was dismissed because I was absent from work with pregnancy related illness.
- C. I was selected for redundancy and suspect this was related to my pregnancy or becoming a new parent.
- D. I was treated so poorly that I felt I had to leave.
- E. I received a pay rise or bonus that was less than my peers at work.
- F. I had a reduction in my salary or bonus.
- G. I was discouraged from attending antenatal classes during work time.
- H. I was denied access to training that I would otherwise have received.
- I. I was bullied by my line manager/supervisor.
- J. I was unfairly criticised or disciplined about my performance at work.
- K. I was disciplined because I was absent from work with pregnancy related illness.
- L. I failed to gain a promotion I felt I deserved or was otherwise sidelined.
- M. I received unpleasant comments from my employer and/or colleagues.
- N. I was given unsuitable work or workloads.
- O. I was invited to have a 'protected conversation' about terminating my employment.
- P. Other - please specify.

Question 3: If 'yes' to question 1, at which of the following stages did you experience the dismissal/unfair treatment? (Please select all that apply)

- A. During pregnancy.
- B. During Ordinary Maternity Leave (first 26 weeks).
- C. During Additional Maternity Leave (subsequent 26 weeks).
- D. In the six months after returning to work.
- E. In months 7-12 after returning to work.
- F. Other - please specify.

If relevant, please provide any further detail that supports your answer.

Question 4: If selected 'A' or 'B' to question 2, which of the following potentially fair reasons were you given for the dismissal? (Please select all that apply)

- A. Conduct.
- B. Capability.
- C. Redundancy.
- D. Statutory Prohibition.

- E. Some other Substantial Reason.
- F. Don't know/I was not told.

If relevant, please provide any further detail that supports your answer.

Question 5: What calendar year did you experience this issue / these issues described in question 2? (Please select all that apply)

Please note, these options have been selected because the law on pregnancy/maternity workplace protections was different during each of these timeframes.

- A. In 2024 or after.
- B. Between 2010 – 2023.
- C. Between 1996 – 2009.
- D. Before 1996.
- E. Don't know.

Question 6: Were you aware of where to find information about your workplace rights?

- A. Yes – please outline which source(s) you were aware of.
- B. No.

If you are responding as an academic / employer / legal representative / business representative organisation / trade union or staff association / charity or interest group / other organisation:

Question 7: In your view, how common are concerns or complaints related to unfair dismissal or treatment during pregnancy?

- A. Very common.
- B. Common.
- C. Occasional.
- D. Rare.
- E. Non-existent.
- F. Don't know.

If relevant, please provide any further detail that supports your answer. If you are aware of any direct evidence of discrimination and unfair treatment, please provide a summary of that evidence or a link to where it is published.

Question 8: In your view, how common are concerns or complaints related to unfair dismissal or treatment during new motherhood (i.e. on Maternity Leave or when recently returned to work)?

- A. Very common.
- B. Common.
- C. Occasional.
- D. Rare.
- E. Non-existent.
- F. Don't know.

If relevant, please provide any further detail that supports your answer. If you are aware of any direct evidence of discrimination and unfair treatment, please provide a summary of that evidence or a link to where it is published.

For all respondents:

Question 9: In general, when do you think pregnant women and new mothers are at most risk of unfair treatment? *(Please select all that apply)*

- A. During pregnancy.
- B. During Maternity Leave.
- C. Soon after they have returned to work (e.g. within six months of returning).
- D. Some time after they have returned to work (e.g. after six months of returning).
- E. Other.
- F. Don't know.

If relevant, please explain your answer and provide any supportive data/evidence.

Question 10: In general, when do you think pregnant women and new mothers are at most risk of dismissal? *(Please select all that apply)*

- A. During pregnancy.
- B. During Maternity Leave.
- C. Soon after they have returned to work (e.g. within six months of returning).
- D. Some time after they have returned to work (e.g. after six months of returning).
- E. Other.
- F. Don't know.

If relevant, please explain your answer and provide any supportive data/evidence.

Question 11: What impact have the 2023/24 extended redundancy protections for pregnant women and new mothers had on how pregnant women and new mothers are treated in the workplace?

- A. Positive.
- B. Negative.
- C. Negligible.
- D. Don't know.

If relevant, please explain your answer and provide any supportive data/evidence.

3. In what circumstances should dismissals be allowed?

30. This consultation seeks views on how to define the specific circumstances in which it should remain lawful to fairly dismiss a pregnant woman or new mother, despite the introduction of enhanced dismissal protections.
31. As explained in section 1, dismissals which are *because of or for reasons connected with* pregnancy or Maternity Leave are already unlawful; nevertheless, some pregnant women and new mothers continue to report significant negative experiences. The new enhanced dismissal protections would take an additional step: a pregnant woman or new mother could not be fairly dismissed, except for where the law sets out an exception.
32. Section 1 outlined the standard legal framework for unfair dismissal, including the five potentially fair reasons set out in section 98 of the Employment Rights Act 1996, and the test used to determine whether a dismissal based on one of those reasons is fair. This policy proposes changes to how those rules apply to pregnant women and new mothers. Below, we set out a range of options for how the new dismissal protections could operate in practice.
33. When making this decision, our aim is to ensure that dismissal protections are meaningfully strengthened for pregnant women and new mothers, recognising the unique risks to job security that this group faces. At the same time, it is important to preserve the ability to dismiss in cases where continuing employment would have serious consequences for the employer or other staff - striking a fair balance between employee protections and operational needs.

34. We are also mindful of the potential for unintended consequences, such as employers becoming hesitant to hire women of child-bearing age if the protections are perceived as overly restrictive. Getting this balance right is critical. Section 9 invites views on how best to mitigate these risks while upholding the core purpose of the policy. We are seeking views on two broad options:

35. Option 1: Introduce a new general test for fairness

Under this option, employers would still be able to rely on any of the existing fair reasons for dismissal, but they would **also** be required to meet a new stricter standard when relying on that reason to dismiss a pregnant woman or new mother.

Example: Employers could still be required to show a fair reason, **and also** show that letting someone go is, for instance, necessary to avoid serious harm to the business or other staff.

36. Option 2: Narrow the scope of and/or remove some of the fair dismissal reasons

This approach would involve limiting the five potentially fair reasons for dismissal under section 98 of the Employment Rights Act 1996 when applied to pregnant women and new mothers - potentially removing some altogether.

Example: Stakeholders have suggested narrowing the 'conduct' ground to apply only in cases of gross misconduct, meaning dismissal would only be permitted for serious breaches such as theft or violence but not for more minor issues like lateness or poor attitude.

Other suggestions include removing 'capability' as a fair reason - so dismissal for poor performance would no longer be permitted - and removing 'some other substantial reason' (SOSR), which would prevent dismissals based on any other grounds (including situations like conflicts of interest or breakdowns in working relationships) which do not fall within the list of reasons which remained.

Question 12: What kind of test should be used to decide whether a pregnant woman or new mother was fairly dismissed during the protected period?

- A. Replace the current 'range of reasonable responses' test for fairness with a new stricter standard that employers must meet, alongside proving a fair reason.

- B. Narrow the scope of the existing five fair reasons, and/or remove some of them altogether.
- C. Other
- D. Don't know.

If relevant, please explain your answer.

Question 13: If 'A' to question 12, what should that new test be? *(Please select all that apply)*

- A. Continuing the employment of the pregnant woman or new mother would have a significantly detrimental effect on the business.
- B. Continuing the employment of the pregnant woman or new mother poses a health and safety risk to customers, staff, or the public.
- C. Continuing the employment of the pregnant woman or new mother has a serious negative impact on the wellbeing of others.
- D. Other.
- E. Don't know.

If relevant, please explain your answer.

37. The remainder of this section primarily focusses on how Option 2 above (paragraph 36) might be pursued. It looks more closely at each of the five potentially fair reasons and uses fictitious examples to further explore how narrowing or removing some of these might work in practice. The fictitious examples below may also prompt thoughts on answers to Question 13 regarding a more general test.

Conduct

38. Conduct dismissals involve ending someone's employment due to their behaviour. This can range from serious acts like theft or violence (known as 'gross misconduct') to less severe issues such as repeated lateness or poor attitude. This sub-section considers how such cases should be handled during the protected period, and whether the rules should be adjusted to reflect the specific circumstances of pregnant women and new mothers.

39. As trailed at paragraph 36, some stakeholders have suggested that dismissals of pregnant women and new mothers under the new policy should only be permitted if there has been an act of gross misconduct. Gross misconduct is not defined in legislation and can vary according to the particular circumstances of the employment relationship, but it usually involves particularly harmful behaviour – such as theft, physical violence, gross negligence or serious health and safety breaches. An employee can be dismissed fairly for gross misconduct without notice if a fair procedure is followed.
40. However, dismissal can also result from repeated lower-level misconduct, where individual incidents may not justify dismissal on their own, such as ongoing unauthorised absences or repeated breaches of workplace rules. Many employers use disciplinary policies that escalate consequences over time – for instance, dismissal after multiple warnings.
41. This raises an important question: should the new protections allow dismissal for less serious misconduct, particularly when:
- some of the behaviour occurred before the protected period, and/or
 - some of the behaviour continues during the protected period?

Example A: *An employee repeatedly ignores safety protocols in the workplace, such as failing to wear required protective equipment. On two separate occasions, the employee receives a formal warning in line with the employer's disciplinary policy. Shortly after receiving the second warning, the employee informs her employer that she is pregnant. During the protected period, the employee again disregards a key safety rule, and this incident results in a minor injury to a colleague. Several team members raise concerns with management, stating that the repeated behaviour is creating an unsafe work environment and affecting morale.*

Example B: *A pregnant employee uses insensitive language relating to race in front of their team. A single incident of using this specific language would not usually be sufficient for dismissal according to the employer's policy on conduct, but it would usually merit a final written warning. A month later, while still pregnant and at work, the employee uses the same form of words again in front of a customer who complains to management.*

Example C: *A shopworker informs her employer that she is pregnant. During the protected period, she is late to work on five separate occasions when she is meant to be opening up for the day, meaning the business opens later than usual and another member of staff has to step in at short notice. Usually,*

three instances of this behaviour could result in a dismissal. However, the employer addresses the incidents informally, taking into account the protections in place. After the protected period ends, the employee is late to work again.

42. These examples highlight the challenges in deciding how to handle repeated acts of misconduct (which aren't gross misconduct) some of which - but not all - occur during the protected period.
43. Employers have duties to all their staff, as well as to others. For example, there is a duty to provide a safe working environment and prevent harassment, especially where protected characteristics are involved. In Examples A and B, failing to act could expose the employer to legal risk due to the impact on colleagues or customers. In Example C, while there may be no legal risk, the behaviour still clearly affects the business and other staff.

Question 14: Thinking about the fictional examples above - and any personal or professional experience you may have - when do you think it should be possible to dismiss a pregnant woman or new mother on grounds of conduct?
(Please select all that apply)

- A. Employers should be able to dismiss them fairly for any kind of misconduct; the rules shouldn't be narrowed.
- B. They should be dismissed if they have committed an act of gross misconduct (e.g. theft, violence).
- C. They should be dismissed if their continued employment poses a health and safety risk to customers, staff, or the public.
- D. They should be dismissed if their continued employment has a serious negative impact on the wellbeing of others.
- E. They should be dismissed if their continued employment causes significant harm to the business.
- F. Other – please specify.
- G. Don't know.

If relevant, please explain your answer.

Capability

44. Capability dismissals involve ending someone's employment because they're unable to do their job to the required standard. This could be due to poor performance, ill health, or a lack of necessary skills. This sub-section explores whether and how capability-based dismissals should be treated differently during the protected period.
45. When the employee is pregnant or a new mother, these cases can be more complex - especially if the capability issues are temporary. As trailed at paragraph 36, some stakeholders have suggested that it should not be possible to dismiss pregnant women and new mothers fairly for reasons relating to capability. However, excluding capability completely may also pose serious challenges for businesses – as demonstrated by Examples D and E below.

Example D: *In July, Vicky starts to experience headaches and, as a result, she is consistently struggling to engage with more complex tasks at work, which is affecting her performance. Her employer works with Vicky to introduce reasonable adjustments, and she is given less complex tasks to lead on, but this does not help her to improve her performance. In October, Vicky tells her employer she is pregnant.*

Example E: *Mary owns a small nail salon. She works there herself and employs two individuals. One employee, Nadine, has a baby in January. Nadine also has an accident in January and loses fine motor skills in her hands. She returns to work after six weeks of Maternity Leave in order to receive her full-time salary, but Nadine is now unable to work as a nail technician. Nadine moves to answering the salon phone, and Mary employs someone new to work full-time as a nail technician for Nadine's clients. Because of the new enhanced dismissal protections policy, Mary is required to continue to employ Nadine for the rest of the protected period, alongside the two other individuals. This isn't financially viable for Mary in the long-term, and she eventually has to close the salon, and the other staff members also lose their jobs.*

Question 15: Thinking about the fictional examples above - and any personal or professional experience you may have - when do you think it should be possible to dismiss a pregnant woman or new mother fairly on grounds of capability? (Please select all that apply)

- A. Employers should be able to dismiss them fairly for any kind of capability issue; the rules shouldn't be narrowed.

- B. Employers should still be able to dismiss fairly on capability grounds, but only if there's no suitable alternative role available, or one was offered and turned down.
- C. Dismissal should be allowed if continuing employment would seriously harm the business.
- D. Dismissal should be allowed if their continued employment poses a health and safety risk to customers, staff, or the public.
- E. Dismissal should be allowed if their continued employment has a serious negative impact on the wellbeing of others.
- F. Dismissal should be allowed if the employer can clearly show the employee won't be able to do the job after the protected period ends.
- G. Other - please specify.
- H. Capability should not be a fair reason for dismissal during the protected period.
- I. Don't know.

If relevant, please explain your answer.

Redundancy

- 46. Redundancy dismissals are different from the types of dismissal discussed so far because they are not about the employee's behaviour or performance, rather changes in the business. Redundancy dismissals happen when a role is no longer needed - perhaps due to restructuring, a drop in demand, or the closure of a workplace. This sub-section looks at how redundancy should be handled during the protected period, and whether additional safeguards are needed to ensure pregnant women and new mothers have the right protections when their role is at risk.
- 47. The current definition of redundancy (section 139(1) of the ERA 1996) applies to two kinds of situations: where the business or site is closing, or there is less need for the job or the work the employee is doing in the location where the employee is employed or in the business more generally.

48. There are already enhanced redundancy protections available for pregnant women and new mothers (paragraphs 21-23); employers need to offer them a suitable alternative vacancy if there is one.
49. However, some stakeholders told us that the availability of 'redundancy' as a potentially fair reason for dismissal should be narrowed down further for this policy. They stated that the current requirement for the employer to offer any suitable alternative role should remain but, if that is not possible, then a fair dismissal on grounds of redundancy should be confined to situations of pressing need, such as:
- a. Business closure (e.g. company ceases trading permanently).
 - b. Site closure (e.g. shutting down a regional office or factory).
 - c. Insolvency or bankruptcy.
 - d. Actions taken (e.g. restructuring the business or dismissing employees) in order to avoid severe financial difficulty.
 - e. Where there are no viable alternative roles available, even after significant efforts to redeploy.
50. Under this suggestion, the kind of redundancy scenarios that would no longer be in scope would include:
- a. Reorganisation or restructuring (e.g. merging departments or streamlining roles for efficiency) – this could be insufficient unless tied to pressing financial needs.
 - b. Reduced need for work (e.g. decline in demand, increase in outsourcing, or increase in automation eliminating manual roles) – this could be insufficient unless unavoidable or part of a broader existential threat to the business.
 - c. Relocation of operations (e.g. moving a team to a different site but keeping the original site open) – this could be insufficient unless no alternative roles exist at the original office, and she cannot relocate.
 - d. Cost-cutting measures (e.g. reducing headcount to improve profitability) – this could be insufficient unless the business is at risk of closure or insolvency.
51. We welcome views on the development of a heightened test that would only permit redundancy dismissals of pregnant women and new mothers during the protected period in exceptional circumstances - for example, where the employer is experiencing or imminently facing financial difficulties so severe that the dismissal cannot reasonably be avoided.
52. This idea is similar to the proposed 'Fire and Rehire' rules in the Employment Rights Bill (clause 28), which would make it automatically unfair to dismiss

someone just to change key contract terms - unless the changes are needed to deal with serious financial difficulties that threaten the future of the business. For public sector employers, dismissal would only be justified if the financial problems are so severe that they risk the organisation's ability to carry out its statutory functions.

53. Examples F and G below highlight how a new 'financial difficulties' test could disproportionately penalise employers acting with care and in good faith. They raise the question of whether keeping the current redundancy rules - or using a more general test - might better reflect the varied realities of business life.

Example F: *Selma runs a successful restaurant but is ready to retire. She tries to find a buyer but decides the process is taking too long. Selma wants to surrender the lease on the building and make the necessary redundancies, but one of her employees is on Maternity Leave and is thus covered by the enhanced protections against dismissal.*

54. Selma in Example F will be unable to meet a 'financial difficulties' test because she is not making changes to her business to mitigate financial difficulty.

Example G: *Mario owns a burgeoning start-up business that has four employees. The prospects for the business are hopeful, but it operates in a particularly volatile and unpredictable market. He loses a major customer to a competitor and the prospects for the business surviving long-term become much more uncertain. To maintain existing profits and put the business on a more stable financial footing, Mario wants to dismiss two of his employees on redundancy grounds and take on the work himself to ensure that the business is more sustainable. One of the two employees at risk of redundancy is pregnant.*

55. Mario in Example G is unlikely to meet the 'financial difficulties' test either, since the reason for dismissal is not because of any imminent financial problem, but because of the need to ensure the medium- and long-term survival of the business.

Question 16: Thinking about the fictional examples above - and any personal or professional experience you may have - when do you think it should be possible to dismiss a pregnant woman or new mother fairly on grounds of redundancy during the protected period? *(Please select all that apply)*

- A. Employers should be able to dismiss them fairly for any kind of redundancy, as long as they've been offered a suitable alternative vacancy if there is one; the rules shouldn't be narrowed.

- B. An employer should still be able to dismiss on redundancy grounds, where there is no suitable alternative vacancy, and where terminating her employment would mitigate any financial difficulties that were affecting – or were likely to affect in the immediate future – the employer’s ability to continue the business (or to perform its statutory functions, if it is a public sector employer with statutory duties).
- C. Employers should still be able to dismiss on redundancy grounds where the business/organisation ceases to exist and the employee has been offered any suitable alternative vacancy available with the employer, or an associated employer.
- D. Other - please specify.
- E. Don’t know.

If relevant, please explain your answer.

Statutory Prohibition

- 56. Statutory prohibition refers to situations where it would be illegal for an employer to continue employing someone, either generally or in a particular job, e.g. if the employee no longer has the right to work in the UK, or if keeping them in the role would breach a legal requirement. Unlike some other types of dismissal, this is not about performance or conduct, but about legal restrictions that prevent the employment from continuing. For instance, a bus driver who loses their driving licence will not be able to lawfully continue in their role while they are without their licence, and so a dismissal on the grounds of statutory prohibition may be necessary. This sub-section explores how such cases should be treated during the protected period.
- 57. Early stakeholder feedback on the enhanced dismissal protections policy has suggested retaining statutory prohibition as a potentially fair reason for the dismissal of a pregnant woman or new mother during the protected period.
- 58. That does not mean that a dismissal on this ground would always be fair. Fairness would be assessed in the usual way, by taking into account all the circumstances, including, for example, whether the employer is able to offer the employee an alternative role to which the statutory prohibition does not apply, or whether unpaid leave could be offered in circumstances where the prohibition is temporary.

59. One option for strengthening protections in statutory prohibition cases is to give pregnant women and new mothers the right to be offered a suitable alternative role before dismissal. For example, if a solicitor returning from Maternity Leave has forgotten to renew her practising certificate, her firm could offer her a paralegal role (if there is one) until she manages to renew her certificate. This would help avoid unnecessary dismissal while still meeting legal requirements.

Question 17: Thinking about the explanation above - and any personal or professional experience you may have - when do you think it should be possible to dismiss a pregnant woman or new mother fairly on grounds of statutory prohibition during the protected period? (Please select all that apply)

- A. Employers should be able to dismiss them fairly for any kind of statutory prohibition issue; the rules shouldn't be narrowed.
- B. Employers should still be able to dismiss on statutory prohibition grounds, but only if there's no suitable alternative role available, or one was offered and turned down.
- C. Other - please specify.
- D. Don't know.

If relevant, please explain your answer.

Some other Substantial Reason (SOSR)

60. Some other substantial reason (SOSR) is a broad category used when an employer has a genuine and significant reason for dismissal that doesn't fall under conduct, capability, redundancy, or legal restrictions. Common reasons for dismissal under this category include:

- Breakdown in working relationships – this could include persistent personality clashes.
- Conflict of interest – for example, a senior employee holding shares in a competitor company.
- Reputational risk – for instance, if an employee says something publicly at a conference that damages public trust in the organisation.

61. Because SOSR is flexible, context-specific and open-ended, it is harder to define - and that raises important questions about how, or whether, it should apply to pregnant women and new mothers during the protected period.

Question 18: Thinking about the explanation above - and any personal or professional experience you may have - when do you think it should be possible to dismiss a pregnant woman or new mother on grounds of SOSR during the protected period? *(Please select all that apply)*

- A. Employers should be able to dismiss them fairly for any kind of SOSR issue; the rules shouldn't be narrowed.
- B. Employers should still be able to dismiss on SOSR grounds, but only if there's no suitable alternative role available, or one was offered and turned down.
- C. Dismissal should be allowed if continuing employment would seriously harm the business.
- D. Dismissal should be allowed if their continued employment poses a health and safety risk to customers, staff, or the public.
- E. Dismissal should be allowed if their continued employment has a serious negative impact on the wellbeing of others.
- F. Other - please specify.
- G. SOSR should not be a fair reason for dismissal during the protected period.
- H. Don't know.

If relevant, please explain your answer.

4. When the protection starts

Should the protections be a 'day one right'?

- 62. Currently, most claims for 'ordinary' (i.e. not automatic) unfair dismissal can only be made after two years' service. The Employment Rights Bill aims to remove that qualifying period and replace it with a requirement that the claimant must have started work before being able to bring a claim – although there will be a statutory probation period during which employees can be fairly dismissed under a 'lighter touch' legal standard.
- 63. The existing protections against dismissal for pregnant women and new mothers (enhanced redundancy protection, automatic unfair dismissal and discrimination outlined in section 1) are all accessible from day one of employment.

64. If new enhanced dismissal protections are granted to pregnant women and new mothers from day one, employers may be required to retain and pay employees throughout pregnancy, Maternity Leave, and for at least six months thereafter - even in cases where dismissal might otherwise have occurred. Some may argue this places an unreasonable burden on employers, particularly where the employee has not yet had the opportunity to demonstrate their capability. Introducing a qualifying period - such as 3-9 months, aligned with a typical probation period - could help mitigate unintended consequences, including potential reluctance among employers to recruit women of childbearing age.
65. Conversely, if enhanced dismissal protections are not made a 'day one' entitlement, a pregnant employee who discloses her pregnancy early in her employment may not be covered, despite facing similar vulnerabilities to longer-serving staff. In such cases, she may still have recourse through claims of discrimination or automatic unfair dismissal, but she would need to demonstrate that her dismissal was directly linked to her pregnancy. A qualifying period would also mean the enhanced dismissal protections were inconsistent with other protections for this group.

Question 19: When should employees be entitled to the enhanced dismissal protections?

- A. When the employment relationship begins (when they agree with an employer that they'll start work for them, e.g. when a contract is signed).
- B. From the day they start work.
- C. After an initial period of employment of between 3-9 months, aligned with a typical probation period.
- D. Other – please specify.

If relevant, please explain your answer.

When should the protected period start?

66. Separately, the law will also need to define when the protections should start for pregnant women. The existing enhanced redundancy protections (paragraphs 21-23) start when the employee tells her employer she is pregnant. The most familiar and straightforward approach for both employees and employers would

be for the enhanced dismissal protections to also start when an employee informs her employer that she is pregnant.

67. If the enhanced dismissal protections policy were to start at an earlier point (e.g. from when the woman becomes pregnant, even if she is not yet aware of her pregnancy, or from when she becomes pregnant but has not yet told her employer), this could raise practical challenges for employers. They could be liable for claims of unfair dismissal under the policy without knowing it, and this could have unintended consequences – for example, employers asking employees intrusive questions about whether they are or might be pregnant.
68. On the other hand, some women may experience difficult symptoms as a result of their pregnancy before they know they are pregnant, and this could affect their attendance or behaviour at work prior to them informing their employer of their pregnancy.

Question 20: At what point should the enhanced dismissal protections start for pregnant women?

- A. When the employee becomes pregnant.
- B. When the employee becomes aware that she is pregnant.
- C. When an employee informs her employer that she is pregnant.
- D. Other - please specify.

If relevant, please explain your answer.

5. When the protection ends

Where there is entitlement to Maternity Leave

69. Women will be covered by the enhanced dismissal protections policy during the course of their pregnancy, but the law will also need to specify how long the enhanced dismissal protections should last for mothers who have recently given birth. Paragraph 5 says this will be during Maternity Leave and for at least six months after returning to work.
70. As outlined in section 1, the 2023/24 changes, which extended the enhanced protections against redundancy dismissals beyond the period of statutory family leave, provided for a period of protection spanning 18 months from the birth / placement for adoption of the child. The 18-month protection 'window' post-

pregnancy ensures that a mother returning from a year of Maternity Leave receives an additional six months of enhanced redundancy protection. However, some mothers taking Maternity Leave may not take the full entitlement of one year and may return to work earlier; this protection 'window' ensures that they still receive 18 months of redundancy protection overall.

71. The most recognisable approach for employees and employers would be for the post-pregnancy 'window' to continue the approach in the 2023/24 enhanced redundancy protections. This would mean that every new mother would receive the same 18 months of enhanced dismissal protection, regardless of when they went back to work. For example, whether a new mother takes a year-long unpaid career break after a twelve-month Maternity Leave period, or returns to work two months after the birth, she would still be protected for 18 months from the birth or adoption placement in either scenario. This would differ from the approach mentioned in paragraph 5, which would limit the protection to six months after the mother has returned to work, regardless of the child's age.
72. Depending on feedback received on the questions in section 6, the rules on accessing this 18-month protection 'window' may be slightly different for those taking Shared Parental Leave, Neonatal Care Leave and Bereaved Partner's Paternity Leave – if those are to be brought into scope for the policy.

Question 21: When should the protection 'window' for new mothers entitled to maternity leave end?

- A. 18 months from the birth of the child – aligning with the 2023/24 redundancy protections.
- B. Six months from the return to work (the 'return to work' being the end of the Maternity Leave period).
- C. Don't know.

Where there is no entitlement to Maternity Leave

73. Thinking about how long this protection should last for women who are not entitled to Maternity Leave (e.g. because they have experienced a miscarriage), the most familiar approach for employees and employers would be to again align with the 2023/24 enhanced redundancy protections. This would mean that women who are not entitled to Maternity Leave would have this enhanced protection against dismissal for two weeks after the end of the pregnancy, regardless of how their pregnancy ends.

74. Paragraph 22 sets out that the existing enhanced redundancy protections for women who have experienced miscarriage before 24 weeks end two weeks after the end of the pregnancy. (Please note, this is not relevant to women who have a stillbirth after 24 weeks. They are entitled to the full year of Statutory Maternity Leave, and therefore have 18 months of enhanced redundancy protection.)
75. We are separately considering a new entitlement to bereavement leave for those following a miscarriage and will consider the interaction between that leave entitlement and this new enhanced protection against dismissal.

Question 22: Should women who are not entitled to Maternity Leave have protection against dismissal for two weeks after the end of their pregnancy?

- A. Yes.
- B. No – please explain your answer.
- C. Other – please explain your answer.
- D. Don't know.

6. Other parents

76. As outlined in section 1, some recent parents other than new birth mothers also have enhanced protection in a redundancy situation. Statutory Maternity Leave can be a longer family leave entitlement of up to 52 weeks. However, there are other statutory family leave entitlements for new parents that can also be lengthy, and employees taking these other types of extended leave may also be at a disadvantage in other dismissal situations (besides redundancy).
77. Parents taking the following types of family leave can be away from work for extended periods of time and for purposes similar to Maternity Leave:
- a. Adoption Leave – a maximum of 52 weeks.
 - b. Shared Parental Leave – a maximum of 50 weeks.
 - c. Neonatal Care Leave - a maximum of 12 weeks.
 - d. Bereaved Partner's Paternity Leave – not yet in force but will be a maximum of 52 weeks.
78. We are seeking views on whether the enhanced dismissal protections should also cover other parents besides pregnant women and women who have taken Maternity Leave, for the time they are on leave and for a time after they have returned to work.

79. We are not considering Paternity Leave as part of the enhanced dismissal protection policy because it is currently only up to two weeks, and there are also already standard protections in place against dismissal for fathers looking to take or who have taken Paternity Leave. The government is currently conducting a review of parental leave and pay in which all current and upcoming parental leave and pay entitlements are in scope. We will consider potential impacts from any possible reforms, including in relation to protections, as part of that review.

80. It is important to note that if the policy were to cover those other parents captured at paragraph 77, this would not diminish the protection available to pregnant women and new mothers. This is because, when in force, those covered by the policy could only be dismissed in specific circumstances, and this would not involve choosing between employees who qualify. To give a sense of impact, the table below shows the number of individuals in receipt of Statutory Maternity Pay, Statutory Shared Parental Pay and Statutory Adoption Pay.

Table 2: Individuals in receipt of Statutory Maternity Pay, Statutory Shared Parental Pay and Statutory Adoption Pay 2019/20 to 2024/25 (the latest year for which full year data is available)

Year (April to March)	Statutory Maternity Pay	Statutory Shared Parental Pay	Statutory Adoption Pay
2019-20	647,800	13,000	4,900
2020-21	627,200	11,200	4,400
2021-22	636,000	13,000	4,600
2022-23	627,500	14,200	4,500
2023-24	623,100	17,200	4,500
2024-25	630,900	22,700	4,500

Notes on the table:

- The data collected uses HMRC Real Time Information (RTI) system. RTI is subject to revision and updates, so there may be small fluctuations in figures reported, and these figures should not be considered 'final'.
- Figures have been rounded to the nearest hundred.

- The table is based on the total number of individuals who claimed Statutory Maternity Pay, Statutory Shared Parental Pay and Statutory Adoption Pay in a given year, irrespective of when the payment first started.
- Information provided by employers to HMRC show the number of individuals in receipt of statutory parental pay. This data provides a broad indication of take-up of different forms of parental leave but does not include those that take parental leave which is unpaid.

81. Data on the number of individuals in receipt of Statutory Neonatal Care Pay is not available. However, the Impact Assessment⁴ for Neonatal Care Leave and Pay estimated 100,000 babies are admitted to neonatal care each year following their birth in Great Britain, of which an estimated 40,000 babies spend over one week in neonatal care each year. From this, it is estimated that around 58,000 parents will be eligible and that around 35,000 parents will take up paid Neonatal Care Leave every year. These are parents that should already have taken some Maternity Leave or Paternity Leave.

For parents taking or who have taken Adoption Leave, Shared Parental Leave or Neonatal Care Leave only:

Question 23: Have you personally experienced dismissal or unfair treatment because you have taken a long family leave entitlement (i.e. Adoption Leave, Shared Parental Leave or Neonatal Care Leave)? *(Please select all that apply)*

- A. Yes – I took Adoption Leave.
- B. No – I took Adoption Leave.
- C. Yes – I took Shared Parental Leave.
- D. No – I took Shared Parental Leave.
- E. Yes – I took Neonatal Care Leave.
- F. No – I took Neonatal Care Leave.
- G. Don't know.

Question 24: If 'yes' to question 23, which of the following applies? *(Please select all that apply)*

- A. I was dismissed.
- B. I was selected for redundancy and suspect this was related to my pregnancy or becoming a new parent.
- C. I was treated so poorly that I felt I had to leave.
- D. I received a pay rise or bonus that was less than my peers at work.
- E. I had a reduction in my salary or bonus.

⁴[The Neonatal Care Leave and Pay \(Consequential Amendments to Subordinate Legislation\) Regulations 2025 - Impact Assessment](#)

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- F. I was discouraged from attending antenatal classes during work time.
- G. I was denied access to training that I would otherwise have received.
- H. I was bullied by my line manager/supervisor.
- I. I was unfairly criticised or disciplined about my performance at work.
- J. I failed to gain a promotion I felt I deserved or were otherwise sidelined.
- K. I received unpleasant comments from my employer and/or colleagues.
- L. I was given unsuitable work or workloads.
- M. I was invited to have a 'protected conversation' about terminating my employment.
- N. Other - please specify.

Question 25: If 'yes' to question 23, at which of the following stages did you experience the dismissal/unfair treatment? *(Please select all that apply)*

- A. Between telling my employer I was taking the Adoption Leave / Shared Parental Leave / Neonatal Care Leave and going on leave.
- B. During the Adoption Leave / Shared Parental Leave / Neonatal Care Leave.
- C. In the six months after returning to work.
- D. In months 7-12 after returning to work.
- E. Other - please specify.

If you are responding as an academic / employer / legal representative / business representative organisation / trade union or staff association / charity or interest group / other organisation:

Question 26: Do you think that parents who take long, family leave entitlements (i.e. Adoption Leave, Shared Parental Leave or Neonatal Care Leave) are vulnerable in a dismissal situation?

- A. Yes.
- B. No.
- C. Don't know.

If relevant, please explain your answer and provide any supportive data/evidence.

For all respondents:

Question 27: Do you think the enhanced dismissal protections should also cover employees taking these other types of long family leave? *(Please select all that apply):*

- A. Adoption Leave.
- B. Shared Parental Leave.
- C. Neonatal Care Leave.
- D. Bereaved Partner's Paternity Leave.

If relevant, please explain your answer and provide any supportive data/evidence.

Question 28: Thinking about your answer to question 27, should the protection against dismissal start from the first day of the leave?

- A. Yes.
- B. No.
- C. Don't know.
- D. Other – please specify.

If relevant, please explain your answer.

Question 29: Thinking about your answer to question 28, how long should the protection against dismissal last? *(Please select all that apply)*

- A. For Adoption Leave, it should follow on from the approach of the enhanced redundancy protections for Adoption Leave (i.e. 18 months from the birth of the child/placement for adoption or entry into Great Britain).
- B. For Shared Parental Leave, Neonatal Care Leave and Bereaved Partner's Paternity Leave, it should follow on from the approach of the enhanced redundancy protections for Shared Parental Leave and Neonatal Care Leave (i.e. if the employee takes less than six weeks of continuous leave, the protection ends on the last day of the leave; if they take more than six weeks of continuous leave, the protection ends 18 months from the birth of the child/placement for adoption or entry into Great Britain).
- C. Other – please explain your answer.

7. Awareness of rights

82. Acas and the EHRC provide guidance and highlight the tools available to pregnant women and new mothers who believe they have experienced discrimination or unfair treatment. For example, there is an Acas page dedicated to pregnancy and maternity discrimination.⁵ Acas guidance for employers also outlines the legal obligations and best practices when it comes to managing pregnancy and maternity,⁶ and the EHRC have a toolkit to provide employers with advice on what they should do to prevent pregnancy and maternity discrimination at work.⁷ Additionally, there are a number of helplines offering

⁵<https://www.acas.org.uk/pregnancy-and-maternity-discrimination>

⁶<https://www.acas.org.uk/managing-your-employees-maternity-leave-and-pay>

⁷[Equality watchdog advises employers on updated pregnancy and maternity protections in the workplace | EHRC](#)

advice on workplace rights/equality law, e.g. Acas and the Equality Advisory and Support Service.

83. The MATB1 form (which enables a pregnant woman to claim Statutory Maternity Pay from her employer or Maternity Allowance from Jobcentre Plus) was also updated to include a link to advice and guidance on employment rights for pregnant women and new mothers.

84. Nevertheless, stakeholders have told us that many women are still unaware of their workplace rights when they become pregnant or a new mother. There may be additional barriers for women from minority groups.

Question 30: How do we ensure women, including those from minority groups, are aware of the enhanced dismissal protections for pregnant women and new mothers? *(Please select all that apply)*

- A. Through intermediaries / trade unions / advice organisations (e.g. Pregnant then Screwed, Maternity Action, Working Families).
- B. Clear information in onboarding and employee handbooks.
- C. Through government / regulatory / public bodies (e.g. Gov.uk, Acas, EHRC, Health & Safety Executive).
- E. Other - please specify.

Please explain your answer – we welcome separate detail on how women from minority groups can be made aware as part of your answer.

Question 31: How do we ensure employers are aware of these changes? *(Please select all that apply)*

- A. Through intermediaries / advice organisations (e.g. business groups).
- B. Through government / regulatory / public bodies (e.g. Gov.uk, Acas, EHRC, Health & Safety Executive).
- C. Other - please specify.

Please explain your answer.

8. Supporting businesses

85. The government is committed to supporting businesses in navigating the changes attached to the Plan to Make Work Pay smoothly and effectively. Our aim is to minimise disruptions and foster a resilient business environment.
86. We welcome views on what could be done to mitigate the administrative burdens of this policy on businesses, including smaller business who may have more limited resources. For example, the published impact assessment for this high-level policy proposal suggested exploring with businesses access to guidance and advice to navigate the changes but also to prevent disputes from escalating to tribunal (this is also relevant to section 7).⁸

Question 32: How can we best support businesses, including smaller businesses, through this change and to avoid disputes escalating to the Employment Tribunal? *(Please select all that apply)*

- A. Clear guidance.
- B. Awareness raising campaign.
- C. Employer training / webinars / workshops.
- D. Templates / model policies / checklists.
- E. Free advice routes.
- F. More information about dispute resolution (e.g. Acas early conciliation).
- F. Other - please specify.

Please explain your answer.

9. Mitigating unintended consequences

87. The government's primary ambition with this enhanced dismissal protections policy is combating pregnancy and maternity discrimination. While we want to change behaviour, it is essential that the policy does not have adverse effects.
88. Our initial stakeholder engagement on the policy proposal has identified the following risks:
- Employers may become more hesitant to hire or avoid hiring women, particularly those of childbearing age, if they assess there to be too many legal,

⁸[Impact assessment: protections against dismissal for pregnant workers](#)

procedural or practical difficulties when it comes to managing dismissals of pregnant women and new mothers.

- If pregnant women and new mothers are perceived as having undue protections against dismissal, this may affect perceptions of workplace fairness. This could strain workplace relationships, cause more discrimination of women in the workplace, and/or make pregnant women and new mothers feel as though they are 'forced out'.

89. That engagement also suggested that this risk of unintended consequences could be mitigated against by introducing clear guidance, with good practice examples, to help managers and all employees navigate the changes and understand that the policy is about ensuring a vulnerable group can realise their full potential at work, and by emphasising the business benefit attached to retaining and investing in staff.

Question 33: What unintended consequences, if any, do you think could arise from the enhanced dismissal protections? *(Please select all that apply)*

- A. Increased discrimination – hesitancy in or avoiding hiring women of childbearing age.
- B. Negative perception of workplace fairness/culture.
- C. Employers delay dismissal decisions until after protection period lapses.
- D. Negative impact on hiring generally.
- E. Legal uncertainty - employers avoid fair dismissal due to risk.
- F. Administrative burden (e.g. additional documentation).
- G. Unsustainable or unrealistic asks on small businesses.
- G. Other - please specify.
- H. None.

Please explain your answer.

Question 34: What unintended consequences, if any, do you think could arise if the policy were to exclude capability and SOSR as fair reasons to dismiss a pregnant woman or new mother (paragraph 36)?

Please explain your answer.

Question 35: What action(s) could be taken to mitigate against any unintended consequences? *(Please select all that apply)*

- A. Clear guidance.

- B. Training and support for employers.
- C. Other - please specify.
- D. None.

10. Additional changes

90. The EHRC and Women and Equalities Select Committee (WESC) have previously made recommendations for change regarding pregnancy and maternity discrimination in the workplace.^{9 10} Actions taken in response to these recommendations include:

- the 2023/24 enhanced redundancy protections (set out in section 1).
- an online toolkit to help provide SMEs with clear advice on what they should do to prevent pregnancy and maternity discrimination at work, which continues to be updated.
- an e-learning package from Acas on Pregnancy and Maternity at Work.
- an update to the MAT B-1 form (outlined at paragraph 83).
- strengthened Health and Safety Executive (HSE) guidance on workplace risk assessments for new and expectant mothers.

91. The government was also called on to change the time limit from three to six months for a woman to bring an Employment Tribunal claim in cases involving pregnancy and maternity discrimination, which is now being proposed via the Employment Rights Bill (for all Employment Tribunal claims).

92. While this enhanced dismissal protections policy is concerned with the dismissals of women who are pregnant or have recently become mothers, the government recognises that pregnancy and maternity discrimination can manifest in other ways outside of dismissal. Discrimination is not always overt or easily identifiable – for instance, it may include being denied promotions or training opportunities in advance of, during or after Maternity Leave.

93. Moreover, we acknowledge that the tribunal process itself may be especially challenging for a woman who is either preparing to give birth or caring for a new baby, including providing the right evidence, understanding their legal rights, and navigating the challenges of taking a claim through the tribunal legal process.

⁹https://www.equalityhumanrights.com/sites/default/files/pregnancy_and_maternity_recommendations.pdf

¹⁰<https://publications.parliament.uk/pa/cm201617/cmselect/cmwomeq/90/90.pdf>

94. In this section, we are seeking views on additional changes that could be introduced to tackle pregnancy and maternity discrimination, and to ensure women who experience this discrimination are able to access just outcomes.

Optional questions for all respondents:

Question 36: What do you think are the main causes of pregnancy and maternity discrimination? *(Please select all that apply)*

- A. Lack of awareness.
- B. Negative attitudes or bias.
- C. Cost and operational pressures.
- D. Fear of legal risk or complexity.
- E. Poor communication (e.g. during Maternity Leave).
- F. Other - please specify.

Please explain your answer and provide any supportive data/evidence.

Question 37: What other changes should the government prioritise to tackle pregnancy and maternity discrimination?

Please explain your answer and provide any supportive data/evidence.

Next Steps

95. This consultation will close on 15 January 2026. Following the closure of this consultation, we will analyse all responses and publish a government response in due course.

96. This measure is due to be implemented in 2027.

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		Your responses, including any personal data, may be shared with: • (i) a third-party provider, • (ii) another government department, or • (iii) an organisation acting on behalf of the Department for Business and Trade under contract or an equivalent agreement that safeguards your personal information in line with DBT requirements. These parties may use technology, including artificial intelligence, for the purpose of analysing and summarising responses, but only in accordance with DBT's agreed terms and applicable data protection law. We will not: • sell or rent your data to third parties • share your data with third parties for marketing purposes We may publish a list or summary of responses in an anonymised form, including in any subsequent review reports. "Anonymised" means that all information which could identify you has been removed, so that individuals cannot be identified from the published data. We may also share your personal data where required to by law. You can leave out personal information from your response entirely if you would prefer to do so. Wherever possible please avoid including any additional personal data in free-text responses beyond that which has been requested or which you consider necessary for DBT to be aware of. We will only retain your personal data for as long as:
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		• it is needed for the purposes of the consultation; • it is needed to archive in the public interest, or scientific, historical, or statistical research, in accordance with Article 89 UK GDPR and the Data Protection Act 2018 (DPA); • the law requires us to. This generally means that we will hold your personal data for at least one year. Your Rights Under Data Protection Law Under the UK General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018 (DPA), when your personal data is processed on the basis that it is necessary for the performance of a task carried out in the public interest or in the exercise of official authority (Article 6(1)(e)), and, where relevant, for reasons of substantial public interest (Article 9(2)(g)), you are entitled to exercise the following rights: • Right of Access: You can request copies of the personal data we hold about you. • Right to Rectification: You can ask us to correct any personal data you believe is inaccurate or incomplete. • Right to Restriction: You can request that we restrict the processing of your personal data in certain circumstances (for example, if you contest its accuracy or object to its processing). • Right to Object: You can object to the processing of your personal data where it is processed on the basis of public task, in certain circumstances. • Right to Data Portability: In some cases, you may request
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