

Health & safety issues for pregnant & breastfeeding women



An overview

There is special legal protection for working women who are pregnant or new mothers. Forces must take specific steps to ensure the health of the mother and baby is not put at risk.

Every force with employees of childbearing age must conduct a general risk assessment under the Management of Health and Safety at Work Regulations 1992. This also applies to the police.

This general risk assessment should specifically consider whether there are any potential workplace risks to women who are pregnant, new mothers (those returning to work up to six months following birth), or women who are breastfeeding.

The workforce must be informed of any risks and of the measures taken to reduce, remove or control them.

Special duty to new and expectant mothers

When you tell the force that you are pregnant, they have to carry out a specific individual risk assessment for you. They don't have to do this until they have written notification of your pregnancy, so it's important you do this as soon as possible. The force can ask for written proof of your pregnancy from your GP or midwife.

The specific risk assessment must look at whether your working conditions involve any potential risks to your health or the health of your baby. It must also take into account any medical advice you've received. For example, if you are suffering from a pregnancy-related condition, such as pre-eclampsia or have a history of miscarriages, you might have to take more frequent breaks or avoid stress. The force will be under a legal obligation to make adjustments to your working conditions if this is the case.

Risk assessment

The risk assessment must specifically examine all aspects of your working conditions, including the physical aspects of the workplace and your working hours and workload. This may involve looking at the following:

- Mental and physical fatigue
- Hours/times of work
- Handling loads
- Movement and posture
- Shock/vibration
- Travelling requirements
- Noise
- Extreme hot or cold temperatures.

The force must also assess whether there are any physical, chemical or biological risks to you and your baby's health. Common risks for police officers include night work (see below) or performing a very physical role. Other issues might involve the use of equipment or the requirement to wear a cumbersome uniform.

Outcome of risk assessment

If a risk is identified, the force must tell you and must take action to remove it, or at least minimise its effects, wherever possible. If this isn't possible, the force must change your working conditions or hours of work to prevent your exposure to the risk.

However, if a serious risk can't be removed, you must be offered a suitable alternative role on equivalent or better terms and conditions. If not, you should be sent home from work on full pay until the risk is removed.

This special leave is known as 'maternity suspension', it is not the same as maternity leave or sick leave. Your maternity suspension will end when you are able to return to work if the risk is removed, or when your maternity leave starts. Your maternity leave will start on the date you notified or earlier if you give the correct notice to bring it forward.

If you work on night duties and have been advised by your GP or midwife that this will put your health or your baby's health at risk, the force should take you off night duties. You should be put on suitable day-time shifts instead, without any loss of status, pay or other benefits. If this isn't possible, you should be suspended on full pay for as long as is necessary.

Antenatal appointments

You are entitled to paid time off work for antenatal care. Your force can ask you to make appointments at the beginning or end of your working day if possible. But if this isn't possible, they can't refuse to let you attend unless they have a good reason. They can ask for proof of appointments, such as an appointment card or a health professional's letter.

There is no legal definition of antenatal care. It can include medical consultations with a GP, midwife or at hospital. It can even include parenting and relaxation classes, providing this is on the advice of your GP or midwife.

Employment Tribunal Claims

The law relating to pregnant women, new mothers returning to work and breastfeeding at work is complex, particularly for police officers. There are a number of potential employment tribunal claims you might be able to make if your force hasn't complied with its obligations, some of them overlapping. This information is intended to highlight the most common claims for police officers, but there may be others depending on your circumstances and you should get specific legal advice.

- It can be sex discrimination if your force fails to conduct a risk assessment or to act following the identification of a risk
- It can also be sex discrimination to change your terms and conditions if you are performing an alternative role or suspended on full pay on health and safety grounds due to pregnancy. This means, for example, if you are on restricted duties because you are pregnant, you should still get SPP or the threshold payment if you were entitled to them in your previous role
- Any less favourable treatment on grounds of sex, pregnancy or maternity leave may be unlawful sex discrimination.

You must bring a claim to the employment tribunal for sex discrimination within three months less one day of the treatment you are complaining about. This can be particularly difficult for pregnancy-related claims, as the treatment may be just as you are starting your maternity leave. There is no automatic time extension in these circumstances, so you should seek advice as soon as possible from your Federation Representative about how to protect your position.

Breastfeeding

Your force will have to carry out a further risk assessment if you provide them with a written notification that you are breastfeeding. This will need to consider what duties you should perform, as there may be risks to breastfeeding or your milk from fatigue or stress, having to work overtime, temperature extremes, chemicals and the need to carry equipment and wear a uniform.

The force also has to provide a rest place at work for you if you are pregnant or breastfeeding. There should also be a private, clean and safe place with a fridge if you want to express milk.



"I would like to take this opportunity, to thank you for your advice and assistance in this matter, which has been most professional".

Contact Us

If you need further assistance, please contact your JBB in the first instance.

Regulated by The Solicitors Regulation Authority.
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This fact sheet is for general guidance only and should not be treated as a definitive guide or be regarded as legal advice. If you need more details or information about the matters referred to in this fact sheet please seek independent formal legal advice. This information was correct at time of going to press October 2009.