

**ACS Submission: Enhanced dismissal protections for pregnant women and new mothers**

To be submitted via online form:

[https://ditresearch.eu.qualtrics.com/jfe/form/SV\\_3eLMZj8Yogjm1Bc](https://ditresearch.eu.qualtrics.com/jfe/form/SV_3eLMZj8Yogjm1Bc)

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

**Question 8: In your view, how common are concerns or complaints related to unfair dismissal or treatment during new motherhood (on maternity leave or recently returned to work)? **Rare****

**Question 9: In general, when do you think pregnant women and new mothers are at most risk of unfair treatment? **Don't know.****

**Question 10: In general, when do you think pregnant women and new mothers are at most risk of dismissal? **Don't know.****

**Question 11: What impact have the 2023/24 extended redundancy protections had on how pregnant women and new mothers are treated in the workplace? **Don't know.****

**In what circumstances should dismissals be allowed?**

**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:*

**This approach would strengthen protections for pregnant women and new mothers while retaining the flexibility needed for retailers to manage genuine health, safety and operational issues in a practical and proportionate way.**

**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.*

The test needs to be clearly defined and applied in a way that retailers can understand and comply with it in practice, without creating unnecessary uncertainty or risk of dispute.

**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.*

The narrowed approach to conduct dismissals during the protected period ensures that the protections are strengthened but fair for retailers

**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.*

We support a limited and proportionate approach to capability dismissals during the protection period that ensures retailers can continue to operate safely and viably.

**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.*

We support retaining the existing redundancy framework during the protected period, including the requirement to offer a suitable alternative vacancy where one exists. Dismissal on redundancy grounds should remain possible where the role genuinely no longer exists and no suitable alternative is available, including in cases of business closure. This approach provides important protections for employees while remaining practical and workable for retailers facing genuine structural or financial pressures

**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.*

This approach supports the protections for pregnant women and new mothers while remaining practical and proportionate for retailers operating with limited alternative roles.

**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.*

This approach keeps SOSR available only in genuinely serious and unavoidable circumstances, aligning with the Gov's intent while also remaining workable and practical for retailers

#### **When the Protection Starts**

**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.*

This approach aligns with existing pregnancy and maternity protections, provides clarity for employers and employees, and avoids creating additional complexity for retailers.

**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.*

This provides a clear, workable trigger point for retailers, while remaining consistent with existing pregnancy-related protections.

#### **When the Protection Ends**

**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.**

*This option provides clarity and consistency for employers, aligns with the existing redundancy framework, and avoids creating different protection lengths depending on individual return-to-work decisions.*

**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.**

#### Other Parents

**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.**

**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.**

**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.**

#### Awareness of rights

**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. Acas, trade bodies, professional bodies).**

**B. During Maternity Leave.**

**C. Soon after employees have returned to work (e.g. within six months of returning).**

**D. Some time after employees 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.**

#### Supporting businesses

**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).**

**G. Other – please specify.**

**Please explain your answer.**

Retailers need clear, practical and accessible support to implement these changes confidently. ACS would be pleased to distribute guidance and information to retailers.

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### **Mitigating unintended consequences**

**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.**

**H. Other – please specify.**

**I. None.**

*Please explain your answer.*

Without clear guidance and proportionate tests, there is a risk that these reforms could create uncertainty and administrative pressure for retailers and unintentionally affect hiring decisions or delay the resolution of genuine workplace issues.

**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)? Don't know**

**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.**

### **Additional changes**

**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.**

Don't know

**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.**

Don't know.