



**Department for Business & Trade –**

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

**Unite the Union**

**Response**

**January 2026**

## About You

Unite is the UK's largest trade union with over 1.2 million members across all sectors of the economy, including health, transport, manufacturing, financial services, food and agriculture, information technology, service industries, construction, energy and utilities, local government and the not-for-profit sector. Unite also organises in the community, enabling those not in employment to be part of our union.

Equality is a pivotal element of Unite's comprehensive agenda, which encompasses job security, equitable pay, and favourable working conditions. To ensure that these values are actively promoted and upheld, we have established a dedicated equality department. This department supervises multiple Equality Committees, each designed to address the specific needs and challenges faced by various groups, including Women, individuals with disabilities, members of the LGBT+ committee, as well as Black and Asian, Ethnic Minorities (BAEM) groups, in addition to young workers. These committees play an essential role in advocating for inclusive practices and fostering an environment where every member can thrive, thereby enhancing the overall integrity and fairness of our organisation.

Unite has consistently championed equal opportunities, striving to eliminate barriers in the workplace and across all facets of society. As part of our commitment to this mission, we have conducted a thorough consultation process to gather comprehensive insights and concerns from each of our dedicated equality committees. Through this effort, we aim to amplify the voices of underrepresented groups and ensure their experiences shape our advocacy for a fairer, more inclusive environment for everyone.

Unite's response to this consultation has gathered comprehensive insights and perspectives from various stakeholders to enhance and inform the development of effective equality legislation. Our submission examines current challenges, best practices, and recommendations for enhancing dismissal protections for pregnant women and new mothers.

## **Consultation questions relevant to Unite the Union**

### **Question 7 – Unite response, B –see below**

Concerns and complaints about unfair treatment and dismissal during pregnancy are widespread across workplaces, yet the true scale of the problem is masked by chronic under-reporting. Research commissioned by the UK government and the Equality and Human Rights Commission (EHRC) found that 77 per cent of women experienced at least one negative or potentially discriminatory treatment during pregnancy, maternity leave or on their return to work.

<https://www.gov.uk/government/publications/pregnancy-and-maternity-related-discrimination-and-disadvantage-research>

In its most severe form, pregnancy and maternity discrimination results in women being pushed out of work altogether. EHRC analysis found that around 11 per cent of women were dismissed, made compulsorily redundant, or treated so badly that they felt forced to leave their job because of pregnancy or maternity—equating to an estimated 54,000 women every year.

<https://www.equalityhumanrights.com/research-report/pregnancy-and-maternity-related-discrimination-and-disadvantage>

More recent research from Pregnant Then Screwed suggests that the situation has deteriorated further, with approximately 74,000 women a year now being forced out of work as a result of pregnancy or maternity discrimination.

<https://pregnantthenscrewed.com/the-issues/pregnancy-discrimination/>

Despite the prevalence of poor and discriminatory treatment, only around 22 per cent of women who experienced problems raised concerns with their employer, either formally or informally. This highlights a significant gap between women's experiences and the likelihood of those experiences being challenged in the workplace.

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/448162/BIS-15-447-pregnancy-and-maternity-related-discrimination-and-disadvantage.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/448162/BIS-15-447-pregnancy-and-maternity-related-discrimination-and-disadvantage.pdf)

Employer-side research further exposes the scale of under-reporting. Government survey data found that just 1 per cent of employers reported receiving a formal complaint related to pregnancy or maternity discrimination in the previous three years, with only 4 per cent reporting informal discussions about unfair treatment. This stark contrast demonstrates how few cases are escalated, despite widespread discrimination.

<https://assets.publishing.service.gov.uk/media/5a80c23940f0b62305b8cfd1/BIS-16-147-pregnancy-and-maternity-related-discrimination-and-disadvantage-experiences-of-employers.pdf>

Taken together, Unite believes this evidence shows that pregnancy and maternity discrimination is common, systemic and routinely unchallenged. While formal complaints and legal cases remain relatively rare, this reflects barriers to enforcement rather than the absence of discrimination. Many women are deterred from raising concerns due to fear of retaliation, job insecurity, lack of confidence in employer processes, and weak enforcement of existing rights.

### **Question 8 – Unite response, B –see below**

Unite's experience shows that concerns about unfair treatment and dismissal during new motherhood are widespread across UK workplaces, yet routinely under-reported. Women returning to work after maternity leave or navigating the early stages of motherhood frequently face discrimination, reduced opportunities, and unfair treatment that undermines both their job security and their long-term career prospects.

The research commissioned by the UK government and the Equality and Human Rights Commission (EHRC), as quoted above, found that 77 per cent of women experienced at least one negative or potentially discriminatory experience during pregnancy, maternity leave, or on return to work—highlighting the scale of poor treatment faced by new mothers in the workplace.

<https://www.gov.uk/government/publications/pregnancy-and-maternity-related-discrimination-and-disadvantage-research>

As quoted in question 7, more recent evidence from Pregnant Then Screwed suggests the situation has worsened, with approximately 74,000 women a year now being pushed out of work due to pregnancy and maternity discrimination, including during the period of new motherhood.

<https://pregnantthenscrewed.com/the-issues/pregnancy-discrimination/>

Taken together, this evidence confirms what Unite hears repeatedly from members: discrimination against new mothers is systemic, deeply entrenched, and routinely unchallenged. The low number of formal complaints reflects not the absence of discrimination, but the failure of workplace systems to protect women and enforce their rights. Unite is clear that stronger enforcement, better employer accountability, and improved workplace protections are urgently needed to ensure new mothers can return to work safely, fairly, and without penalty.

### **Question 9 - Unite response, A, B, C, D and E - see below**

Pregnancy and maternity discrimination in the workplace is not random or isolated. Unite's experience, supported by national evidence, shows that unfair treatment is systemic and concentrated at specific points in the employment relationship. Pregnant women and new mothers are at greatest risk when they disclose a pregnancy, require

workplace adjustments, return from maternity leave, or anytime they seek to exercise their statutory rights.

The risk of unfair treatment often begins at the point of pregnancy disclosure. Many women experience an immediate change in how they are treated by their employer, including the withdrawal of training or progression opportunities and a failure to carry out legally required pregnancy risk assessments. This early shift in treatment can set the tone for further disadvantage throughout pregnancy and maternity.

During pregnancy, the risk intensifies where women require health and safety adjustments or time off related to pregnancy. Unite frequently sees cases where pregnancy-related sickness absence or medical needs are wrongly treated as performance or capability issues. Employers' failure to properly apply health and safety protections can place women at risk and can lead to inappropriate disciplinary or capability procedures.

Periods of redundancy and organisational restructuring present a further high-risk point. Pregnant women and those on maternity leave are disproportionately selected for redundancy, despite clear legal protections. Unite continues to see employers fail to offer suitable alternative employment or meaningfully consult women while they are on maternity leave, resulting in unlawful dismissals or forced exits from work.

Although maternity leave is intended to provide protection, many women experience disadvantage during this period. Common issues include exclusion from workplace communications, training opportunities and promotion processes, as well as pressure to return early or accept changes to their role or terms and conditions.

The point of return from maternity leave is consistently one of the highest-risk periods for unfair treatment. Many women are not permitted to return to the same job or on the same terms, are subject to demotion or role changes, or face hostile attitudes linked to assumptions about their commitment. Performance management is often initiated shortly after return, particularly where women request flexible working.

Requests for flexible working or other adjustments as a new mother frequently act as a trigger for further discrimination. Unite sees repeated examples of unjustified refusals, penalisation for reduced hours, and performance expectations that fail to reflect agreed working arrangements. Women who assert their right to flexibility are often labelled as less committed, placing them at increased risk of progression being blocked or dismissal.

Unfortunately, the risk does not end on return to work but continues throughout the first year of new motherhood. Many women experience poor appraisals linked to childcare responsibilities, denial of pay progression, or pressure to leave their job months after returning from maternity leave. Evidence shows that a significant proportion of dismissals and forced exits occur well after the point of return.

Unite is clear that the low number of formal complaints does not reflect the scale of discrimination faced by pregnant women and new mothers. Instead, it reflects structural barriers to enforcement and widespread employer failure to comply with legal obligations. Pregnancy and maternity discrimination remains a serious workplace

issue requiring stronger enforcement, improved employer accountability, and collective trade union action.

**Question 10 – Unite response, A, B, C, D and E – see above**

**Question 11 – Unite response, A –see below**

The extension of redundancy protections for pregnant women and new mothers introduced in 2023/24 represents a welcome and necessary strengthening of legal safeguards. By extending the requirement to offer suitable alternative employment beyond pregnancy and maternity leave and into the period following return to work, the reforms aimed to address a long-standing gap in protection that left many women vulnerable to redundancy shortly after maternity leave.

As the changes are relatively recent, there is not yet comprehensive official data assessing their full impact. However, evidence we have seen suggests that the extended protections may have begun to influence employer behaviour, particularly in larger organisations and those with established HR capacity. In some cases, employers appear to be taking a more cautious and structured approach to redundancy planning where pregnant women or new mothers are in scope, with earlier consultation and greater consideration of alternative roles.

There are also indications that the reforms have improved awareness of maternity-related redundancy protections among employers and workers alike. Increased guidance and publicity have helped reinforce the principle that pregnancy and new motherhood should not be treated as legitimate grounds for job loss, and in some workplaces, this has strengthened compliance with legal duties during restructuring exercises in particular.

However, Unite's experience indicates that the impact of the extended protections has been uneven. In smaller workplaces and sectors with weaker HR support, awareness and understanding of the new requirements remains limited. Unite continues to see cases where the extended protections are misapplied or ignored, particularly where women are not meaningfully consulted or where suitable alternative roles are not properly explored.

There is also concern that, in some cases, employers may seek to circumvent redundancy protections by reframing dismissals as performance, capability or conduct issues during or after maternity leave. This reflects a broader pattern of pregnancy and maternity discrimination and highlights that redundancy protections alone do not prevent unfair treatment where employer culture and enforcement are weak.

Overall, Unite considers the 2023/24 extension of redundancy protections to be a positive step that has begun to shift employer behaviour and strengthen legal clarity. However, the changes are not sufficient on their own to prevent unfair treatment of pregnant women and new mothers in the workplace. Without stronger enforcement, improved monitoring, and greater employer accountability, many women remain at risk of discrimination, particularly outside narrow redundancy scenarios.

## **Question 12 – Unite response – see below**

Any dismissal of a pregnant woman or new mother during the protected period should be subject to a presumption of unfairness. Given the well-established evidence of pregnancy and maternity discrimination being concealed behind ostensibly neutral reasons such as redundancy, performance or conduct, the starting point must be that dismissal during this period is unfair unless the employer can discharge a strict and enhanced burden of proof.

The protected period should run from the point at which an employee notifies their employer of pregnancy until at least 18 months after the end of maternity leave, or 18 months after childbirth where maternity leave is not taken. This reflects the period of greatest vulnerability to discrimination and aligns with the intention of existing extended redundancy protections.

To rebut the presumption of unfairness, an employer should be required to demonstrate, with clear, objective and contemporaneous evidence, that the dismissal was for a lawful reason wholly unrelated to pregnancy, maternity, childbirth, breastfeeding or caring responsibilities. The test should be a “sole reason” test. If pregnancy or maternity played any part in the decision-making process, whether direct or indirect, the dismissal should be deemed automatically unfair.

In addition, the employer should be required to prove that dismissal was strictly inevitable. This means showing that the dismissal would have occurred in exactly the same way, at the same time and to the same extent had the employee not been pregnant or a new mother. Hypothetical justifications or retrospective rationalisations should not be sufficient to meet this threshold.

Where dismissal is said to be for redundancy, the employer should be required to satisfy an enhanced comparator test. This would require evidence that non-pregnant, non-protected employees in materially identical circumstances were treated the same or more harshly, and that the protected employee was not disadvantaged at any stage of selection, assessment or procedure. The absence of a valid comparator should weigh heavily against a finding of fairness.

The employer should also be required to demonstrate that all reasonable alternatives to dismissal were fully explored and exhausted. This should include suitable alternative employment, redeployment, temporary adjustments and delayed dismissal until the end of the protected period. Failure to evidence genuine consideration of alternatives should render the dismissal unfair.

Procedural fairness during the protected period should be subject to a heightened standard. Employers should be required to show that the employee was fully informed, meaningfully consulted and able to be represented, and that pregnancy- or maternity-related absence, health needs or reduced capacity were explicitly excluded from consideration. Procedural failures should not be treated as minor or technical, but as fatal to a finding of fairness.

Only documentary evidence created prior to pregnancy notification, or prior to maternity leave where relevant, should be relied upon to justify dismissal. Evidence

generated after pregnancy disclosure should be presumed to be tainted unless independently corroborated. The burden of proof in its entirety should rest with the employer; the employee should not be required to prove discriminatory intent, only that dismissal occurred during the protected period.

Where an employer fails to satisfy any element of this strict test, the dismissal should be deemed automatically unfair. Reinstatement should be the default remedy unless the employee opts otherwise, and compensation should reflect the seriousness of dismissing a worker during a legally protected period. Such a test is necessary to ensure that pregnancy and maternity protections operate in practice and are not routinely undermined.

Germany operates one of the strongest protections against dismissal for pregnant women and new mothers in Europe. Under the Maternity Protection Act (Mutterschutzgesetz), dismissal is generally prohibited from the beginning of pregnancy until four months after childbirth, provided the employer knew of the pregnancy or is informed within two weeks of the dismissal. Dismissal during this protected period is only permitted in exceptional circumstances and requires prior authorisation from the competent state authority. The employer must demonstrate that the dismissal is based on serious reasons wholly unrelated to pregnancy or maternity, such as the permanent closure of the business or grave misconduct. The burden of proof rests entirely with the employer, and dismissal is unlawful unless an independent authority confirms that it is unavoidable and unconnected to pregnancy or maternity, creating a near-absolute ban on dismissal that is enforced through external oversight rather than individual legal challenge.

#### **Question 14 – Unite Response, F – see below**

Dismissal on grounds of conduct during the protected period should be possible only in the most exceptional circumstances, and subject to enhanced safeguards. Dismissal for conduct during the protected period should be permissible only where the conduct is wholly unrelated to pregnancy, maternity, childbirth, breastfeeding or caring responsibilities, and where it is so serious that continued employment is objectively impossible. This should be limited to cases of gross misconduct of the highest order, such as serious criminal behaviour, violence, or deliberate and serious dishonesty that fundamentally destroys the employment relationship. Minor misconduct, performance concerns, attendance issues, or behaviour connected to health, stress, fatigue or caring pressures must never justify dismissal during this period.

The employer should be required to demonstrate that the conduct would have led to dismissal in exactly the same way, at the same time, and to the same extent had the worker not been pregnant or a new mother. Any evidence that pregnancy or maternity-related factors influenced how the conduct was perceived, investigated or sanctioned should render the dismissal automatically unfair. Pregnancy- or maternity-related absence, reduced capacity, emotional distress or medical needs must be explicitly excluded from consideration.

Dismissal for conduct should also be prohibited where reasonable alternatives exist. Employers should be required to show that all other responses short of dismissal were

genuinely considered and exhausted, including warnings, temporary adjustments, alternative duties, redeployment, additional support, or deferral of disciplinary action until the end of the protected period. Where conduct concerns arise during pregnancy or early motherhood, the presumption should be in favour of retention and support rather than punishment.

Procedural safeguards should be tighter during the protected period. Any conduct process must be demonstrably fair, transparent and proportionate, with full consultation, representation, and an explicit assessment of whether pregnancy or maternity has affected the situation. Evidence created after pregnancy disclosure should be treated with caution, and retrospective justification should not be permitted.

In line with the German model, serious consideration should be given to requiring independent prior authorisation before any dismissal for conduct during the protected period. This would ensure that dismissal is truly exceptional, objectively justified and free from discrimination, rather than left to employer discretion.

**Question 15 – Unite response, G – see above**

**Question 16 – Unite response, D – see below**

Dismissal of a pregnant woman or new mother on the grounds of redundancy during the protected period should be permitted only in the most exceptional and objectively unavoidable circumstances, and only where redundancy is entirely unrelated to pregnancy or maternity. The starting point must be a near-absolute prohibition on redundancy dismissal, reflecting the heightened vulnerability of women during this period and the well-documented misuse of redundancy to mask discrimination.

Redundancy dismissal during the protected period should be lawful only where the employer can demonstrate that the entire business, workplace, or distinct operational unit in which the woman is employed is permanently closing, such that continued employment is genuinely impossible. Redundancy arising from restructuring, reorganisation, role reshaping, cost-saving exercises, or selection pools must never justify dismissal during the protected period, as these scenarios inevitably involve discretion and therefore heightened risk of discrimination.

This approach mirrors the German model. Under Germany's Maternity Protection Act (Mutterschutzgesetz), dismissal during pregnancy and up to four months after childbirth is generally prohibited and is only permitted in exceptional cases with prior approval from the competent state authority. As German law provides:

*“The dismissal of a woman during pregnancy and up to four months after childbirth is prohibited... Dismissal is permissible only in exceptional cases and requires the prior approval of the competent authority.”* (Section 17, Mutterschutzgesetz). In practice, redundancy dismissal is only authorised where the employer can show that the business is permanently closing and that no continued employment is possible.

Applying this standard, redundancy dismissal during the protected period should only be considered fair where an independent authority or tribunal is satisfied that dismissal was strictly unavoidable, meaning that the employer can prove that no suitable

alternative employment existed anywhere within the organisation, that redeployment or role modification was genuinely impossible, and that dismissal could not reasonably be delayed until the end of the protected period. The employer must also demonstrate that the dismissal would have occurred in exactly the same way, at the same time, and to the same extent had the worker not been pregnant or a new mother.

The burden of proof should rest entirely with the employer, and any doubt should be resolved in favour of the employee. Where redundancy is relied upon, the existence of any discretion, selection process, scoring, or prioritisation should automatically defeat a claim of fairness. Pregnancy and maternity protections must not be circumvented by organisational restructuring that could have been managed without dismissal.

### **Question 17 – Unite response, C - see below**

Dismissal of a pregnant woman or new mother on the grounds of statutory prohibition during the protected period should be permitted only in the narrowest and most exceptional circumstances, where continued employment is objectively unlawful and no lawful alternative exists. The existence of a statutory prohibition should not be treated as an automatic or routine justification for dismissal during the protected period.

Fair dismissal on these grounds should be possible only where legislation expressly and unavoidably prevents the individual from continuing in their role, and where the prohibition cannot be mitigated through adjustments, temporary measures or redeployment. This would include, for example, a clear legal bar on performing specific duties that cannot be modified or reassigned, such as a statutory restriction on exposure to hazards where no safe alternative work is available, or the loss of a legally required licence that cannot lawfully be retained or temporarily suspended.

The employer should be required to demonstrate that the statutory prohibition is direct, absolute and continuing, rather than discretionary, temporary or capable of accommodation. Where the prohibition arises from pregnancy-related health and safety protections, dismissal should be a last resort of absolute necessity. Employers must first exhaust all reasonable steps to maintain employment, including removing risk, altering duties, changing hours or location, offering suitable alternative work on no less favourable terms, or suspending the employee on full pay for as long as the prohibition applies.

Dismissal should be automatically unfair where the statutory prohibition could have been avoided or resolved through reasonable employer action, where it arises from the employer's own failure to manage risk or comply with health and safety obligations, or where the prohibition is time-limited and dismissal could reasonably be delayed until the end of the protected period.

The burden of proof should rest entirely with the employer to show that dismissal was strictly unavoidable, wholly unrelated to pregnancy or maternity as a protected characteristic, and that the same outcome would have occurred in exactly the same way had the worker not been pregnant or a new mother. Any element of discretion or choice should defeat a finding of fairness.

### **Question 18 – Unite response, G - see below**

The category of “some other substantial reason” (SOSR) is inherently broad and ill-defined, and its use as a potentially fair reason for dismissal presents significant risks to workers’ rights. From a trade union perspective, SOSR operates as a catch-all provision that allows employers to reframe decisions that would otherwise be unlawful or unfair, undermining the purpose of statutory protections.

Unite has concerns that SOSR lacks clear statutory boundaries. Unlike conduct, capability or redundancy, SOSR is not anchored to objective criteria. This vagueness gives employers excessive discretion and creates legal uncertainty for workers, making it difficult to predict outcomes or challenge dismissals effectively. In practice, this imbalance of power disproportionately harms workers who are already vulnerable, including pregnant women, new mothers, disabled workers and those raising concerns about workplace practices.

SOSR is particularly problematic because it enables employers to circumvent protections that legislation has expressly created. Decisions motivated by pregnancy, maternity, health and safety concerns, caring responsibilities, or workplace adjustments can be repackaged as “business needs”, “breakdown of relationships” or “operational requirements”, even where these issues arise directly from the worker asserting their legal rights. This undermines the intent of equality and employment legislation and weakens enforcement.

Unite believes that SOSR also risks normalising dismissals based on employer convenience rather than necessity. Situations such as resistance to flexible working, challenges to unsafe practices, or requests for reasonable adjustments may be characterised as “incompatibility” or “loss of trust and confidence”, despite being lawful and protected activity. Allowing dismissal on such grounds has a chilling effect on workers’ willingness to exercise their rights or raise legitimate concerns.

The use of SOSR places an unreasonable burden on individual workers to prove discriminatory intent, rather than requiring employers to justify dismissal against strict and objective standards. This is especially problematic in protected periods, where evidence shows that discrimination is often subtle, cumulative and difficult to evidence. The broad nature of SOSR makes it easier for employers to construct post-hoc justifications that are difficult to disprove, even where the real reason is unlawful.

Trade unions are also concerned that SOSR weakens collective bargaining and workplace stability. By allowing dismissal for loosely defined “substantial reasons”, employers are incentivised to resolve conflict through termination rather than dialogue, adjustment or negotiation. This runs counter to principles of good industrial relations and fair workforce management.

For these reasons, we strongly oppose the use of SOSR as a fair reason for dismissal, particularly during protected periods such as pregnancy and maternity.

### **Question 19 – Unite response, A - see below**

Enhanced dismissal protections should apply from the point at which an employee is objectively vulnerable to unfair treatment, rather than from formal procedural milestones. In the context of pregnancy and new motherhood, protections should begin from the moment of conception, regardless of whether the employee has formally notified their employer. This reflects the reality that many women experience health impacts early in pregnancy and may face adverse treatment before disclosure. Where employer knowledge is relevant, protection should apply once the employer knows or could reasonably be expected to know of the pregnancy.

Protections should continue throughout pregnancy, the entirety of maternity leave, and for a substantial period following return to work. At a minimum, enhanced protections should apply until at least 18 months after childbirth, or 18 months after the end of maternity leave, whichever is later. Evidence consistently shows that women remain at high risk of discrimination, redundancy selection and unfair treatment well beyond the point of return, particularly during restructuring, performance reviews and flexible working discussions.

Enhanced dismissal protections should also apply from day one of employment, with no qualifying service requirement. Introducing length-of-service thresholds would undermine the purpose of enhanced protection and disproportionately exclude those in insecure or precarious work, who are often most at risk of pregnancy- and maternity-related discrimination.

Entitlement to enhanced protection should not be contingent on procedural compliance by the employee, such as strict notification deadlines or formal applications. The responsibility must sit with employers to ensure that dismissal decisions during protected periods meet the highest standard of justification, regardless of administrative technicalities.

In addition, enhanced protections should extend to workers who experience pregnancy loss, including miscarriage and stillbirth, and to those returning from adoption or shared parental leave, recognising comparable vulnerability to unfair dismissal and discrimination.

**Question 20 – Unite response, A - see text above**

**Question 21 – Unite response, A - see text below**

Unite believes the protection window for new mothers entitled to maternity leave should extend to 18 months following childbirth, or 18 months following the end of maternity leave, in order to provide meaningful and effective protection against unfair dismissal and discrimination. Evidence consistently shows that the risk of adverse treatment does not end on return to work, but instead intensifies during the months that follow, as women seek to balance work and caring responsibilities, request flexibility, and re-establish their role in the workplace.

An 18-month protection period reflects the reality of workplace practices. Many dismissals and redundancy selections occur during restructures, performance reviews or organisational change processes that take place several months after a woman's return from maternity leave. A shorter protection window fails to capture these delayed

but foreseeable risks, allowing employers to simply wait until formal protections lapse before taking action.

Health and recovery considerations also support an 18-month window. Many women experience ongoing physical and mental health impacts well beyond the end of maternity leave, including postnatal depression, fatigue, and complications related to childbirth. These factors can affect attendance, performance or availability and may be misinterpreted or penalised in the absence of enhanced protection. Extending the protection window recognises childbirth as a significant life and health event with long-term consequences.

An 18-month period also aligns with caring realities. The first 18 months of a child's life typically involve disrupted childcare arrangements, frequent illness, and significant reliance on parental care. This is the period when women are most likely to request flexible working, adjustments to hours or duties, or temporary accommodations. Evidence shows that such requests often trigger negative treatment or dismissal. Extended protection would help ensure that exercising these rights does not result in adverse consequences.

From an equality perspective, a longer protection window is essential to addressing the motherhood penalty. Women's pay, progression and job security are disproportionately affected in the months following return to work. Without extended protection, structural discrimination is simply delayed rather than prevented. An 18-month window helps counteract this by ensuring that decisions affecting employment are subject to heightened scrutiny during the period of greatest disadvantage.

There is also a strong deterrence and compliance argument. A clearly defined 18-month protection window reduces ambiguity, discourages strategic delay by employers, and strengthens enforcement. It provides a simple and enforceable framework that is easier for workers to understand and for tribunals to apply than shorter or fragmented timeframes.

### **Question 22 – Unite response, A - see below**

Unite believe that women who are not entitled to statutory maternity leave should still be protected against dismissal for a period after the end of their pregnancy, and a minimum of two weeks is justified as an absolute floor, though a longer period would be preferable.

Women who are not entitled to maternity leave are often in the most insecure forms of work, including short-term contracts, agency work, or employment with insufficient qualifying service. These women are already at heightened risk of pregnancy-related discrimination and unfair dismissal. Denying them post-pregnancy protection would compound existing inequality by tying legal safeguards to employment status rather than vulnerability.

A post-pregnancy protection period is essential because the risk of unfair dismissal does not end at childbirth or pregnancy loss. Immediately following the end of pregnancy, women may experience physical recovery needs, mental health impacts, medical appointments, and grief in cases of miscarriage or stillbirth. Without

protection, employers could lawfully dismiss women at precisely the moment when they are most vulnerable.

A two-week protection period would also ensure coherence with existing maternity protections, including the compulsory two-week maternity leave period following childbirth for those entitled to maternity leave. Providing at least the same minimum protection to women outside the maternity leave system avoids creating a two-tier framework where the least protected workers receive the least legal support.

From an enforcement and fairness perspective, a short, defined protection window would prevent employers from timing dismissals to coincide with the end of pregnancy in order to avoid liability. It would act as a basic safeguard against retaliatory or pregnancy-related dismissal and reinforce the principle that pregnancy itself should never be a trigger for loss of employment.

### **Question 27 – Unite response, A,B,C,D - see below**

Enhanced dismissal protections should clearly and explicitly extend to employees taking other types of long family leave, and there is a strong legal, equality and industrial relations case for doing so.

Employees who take long family leave—such as adoption leave, shared parental leave, parental bereavement leave, long-term unpaid parental leave, or extended carers' leave—face many of the same risks of unfair treatment and dismissal as those taking maternity leave. These workers are temporarily absent from the workplace, may experience changes in role or organisational structure during their absence, and often return needing flexibility or adjustments. Without enhanced protections, they are exposed to the same forms of discrimination, redundancy selection and marginalisation that maternity protections are designed to prevent.

Extending enhanced protections is necessary to ensure fairness and consistency across family leave regimes. Limiting heightened dismissal safeguards to maternity leave alone risks entrenching unequal treatment between different types of families and carers, and can indirectly discriminate against men, adoptive parents, same-sex couples and kinship carers. A coherent system should recognise vulnerability arising from extended caring responsibilities, not solely from pregnancy and childbirth.

There is also a strong deterrence and compliance argument. Employers may currently view non-maternity family leave as an opportunity to manage workforce change with fewer constraints, creating a perverse incentive to select those workers for redundancy or dismissal. Enhanced protections would reduce the risk of employees being penalised for exercising their lawful right to care for family members.

From Unite's perspective, extending enhanced dismissal protections would strengthen workforce stability and promote a culture in which caring responsibilities are normalised rather than punished. It would also reduce reliance on litigation by establishing clear rules and expectations for employers.

Enhanced protections should apply from the start of the leave, continue throughout its duration, and extend for a meaningful period after return to work, reflecting the ongoing

vulnerability employees face as they reintegrate and request flexibility. While the precise length of post-return protection may vary depending on the type and length of leave, the principle of enhanced protection should be consistent across all forms of long family leave.

**Question 28 – Unite response, A - see below**

Protection against dismissal should start from the first day of the leave, and there is a strong case for this to apply across all forms of long family leave. The first day of leave is when an employee becomes immediately vulnerable to adverse treatment. From that point, they are absent from the workplace, less visible, and more exposed to organisational change, restructuring or shifting priorities. Delaying enhanced protection creates a gap that employers can exploit by taking dismissal decisions early in the leave period, before safeguards fully apply.

Starting protection from day one also reflects how dismissal risk operates in practice. Decisions about redundancy, role “reshaping” or alleged loss of trust often occur shortly after an employee begins extended leave, particularly where employers anticipate long-term absence..

Maternity protections already recognise the need for early and automatic safeguards, and equality law applies from the moment a protected characteristic is engaged. Extending dismissal protection from the first day of family leave ensures coherence across the legal framework and avoids arbitrary distinctions based on timing rather than vulnerability.

From an enforcement perspective, a day-one protection rule provides clarity and simplicity. It removes the need for complex factual disputes about when leave “counts” for protection purposes and creates a clear rule that is easier for workers to understand and for employers to comply with.

Early protection supports good industrial relations and the effective use of family leave. Unite believes that employees should be able to take leave to care for a child or family member without fear that the very act of taking leave exposes them to dismissal. Starting enhanced dismissal protection from the first day of leave reinforces the principle that family leave is a right, not a risk.

**Question 29 – Unite response. C - see below**

Protection against dismissal in the cases outlined above should last for a meaningful and clearly defined period that reflects the real-world risks faced by employees taking long family leave, rather than ending abruptly at the point of return to work. From a trade union perspective, protection must extend beyond the formal end of leave to be effective.

As a minimum, enhanced protection against dismissal should apply until at least 18 months after the relevant triggering event, such as childbirth, placement for adoption or the commencement of long family leave, or for at least 12 months after the employee’s return to work, whichever period is longer.

Evidence consistently shows that employees are often most vulnerable to dismissal, redundancy selection and adverse treatment after returning to work, rather than during the period of leave itself. The months following return are typically when performance is reassessed, flexible working requests are made, and organisational change or restructuring takes place. Short protection windows allow employers to delay dismissal decisions until protections lapse, undermining the purpose of family leave rights.

Extended protection is also necessary to reflect ongoing health, caring and reintegration challenges. Many employees continue to experience physical or mental health impacts, disrupted childcare arrangements and increased caring responsibilities well beyond their return to work.

Applying a longer protection period also ensures consistency and fairness across different types of family leave. Aligning protection for adoption, shared parental leave, parental bereavement leave and long-term carers' leave with maternity protections avoids creating a two-tier system and promotes equal treatment of all workers with significant caring responsibilities.

Unite believes a clearly defined post-leave protection period improves clarity, compliance and enforceability. Protection lasting for 12 months after return to work, reduces uncertainty, discourages strategic delay by employers and strengthens workers' confidence in exercising their rights.

### **Question 30 – Unite response, A,B,C, D and E - see below**

Ensuring that women, including those from minority groups, are aware of enhanced dismissal protections for pregnant women and new mothers requires a proactive, multi-layered approach that places responsibility on employers, government and regulators rather than on individual women to “find out” their rights.

Awareness should begin with a clear statutory duty on employers to provide information about enhanced dismissal protections as soon as pregnancy is disclosed and again at key points, including the start of maternity leave and prior to return to work. This information should be provided in writing, in plain language, and in accessible formats, with a requirement that it is explained rather than simply issued. Employers should not be permitted to rely on staff handbooks or intranet postings alone.

Government and enforcement bodies should lead sustained public awareness campaigns, similar to those used for minimum wage and health and safety rights. These campaigns should be properly funded, ongoing and delivered through channels that women already use, including GP surgeries, midwifery services, health visitors, children's centres, job centres and online platforms. Messaging should be clear that enhanced protections apply regardless of length of service or contract type.

To reach women from minority groups, information must be culturally competent and accessible. This includes providing materials in multiple languages, working with trusted community organisations, trade unions, faith groups and migrant support organisations, and ensuring that communications address the specific barriers faced

by Black women, disabled women, migrant women and those in insecure or low-paid work. Targeted outreach is essential, as these groups are often at higher risk of discrimination but less likely to receive clear workplace information.

Trade unions have a central role to play in raising awareness and supporting enforcement. Union access to workplaces, including digital access, should be strengthened so that unions can provide independent advice and guidance to pregnant workers and new mothers. Public funding for union-led awareness and advice programmes should be considered, particularly in sectors with low union density and high levels of precarious work. Statutory recognition of Union equality reps with paid time off to carry out their duties is also essential.

Enforcement mechanisms should reinforce awareness. Employers should be required to confirm compliance with information duties, with penalties for failure to inform workers of their rights. Regulators should treat lack of awareness as an indicator of systemic risk and target inspections accordingly.

Finally, Unite believes awareness must be supported by accessible advice and enforcement routes. Clear signposting to free, independent advice services, including unions, ACAS and specialist organisations, should accompany all information about enhanced protections. Rights are only meaningful if women know they exist and feel confident that they can be enforced without retaliation.

### **Question 31 – Unite response, A,B, C - see below**

Ensuring that employers are aware of enhanced dismissal protections requires a clear regulatory framework that places responsibility for awareness and compliance firmly on employers, supported by enforcement, guidance and social partnership.

There should be a statutory duty on employers to understand and comply with enhanced dismissal protections, accompanied by clear guidance issued by government and enforcement bodies. This guidance should be practical, sector-specific and regularly updated, setting out employers' obligations, the scope of the protected period, and the consequences of non-compliance..

Awareness should be reinforced through mandatory training for managers and HR professionals, particularly those involved in recruitment, performance management, restructuring and dismissal decisions. Training should explicitly cover pregnancy, maternity and family-leave protections, unconscious bias, and the heightened legal tests that apply during protected periods. Completion of such training should be a condition of compliance, not a discretionary good practice.

Enforcement mechanisms should actively drive employer awareness. Regulators should publicise enforcement action, penalties and tribunal outcomes where employers fail to comply, sending a clear signal that ignorance of the law is not an excuse. Where breaches occur, sanctions should be meaningful and proportionate, ensuring that compliance is treated as a core business responsibility.

Employers should be required to demonstrate compliance proactively, for example through workplace policies, risk assessments, equality action plans or confirmation

that relevant staff have received training. In larger organisations, this could form part of reporting obligations on equality, workforce practices or family-friendly policies.

Unite, other trade unions and workplace equality representatives should be recognised as key partners in ensuring employer awareness. Employers should be required to consult unions or equality reps when implementing new protections, reviewing policies or managing dismissals during protected periods. This collaborative approach helps embed understanding at organisational level and prevents disputes before they arise.

The government should engage directly with employer bodies, professional associations and sector regulators to ensure consistent messaging and reach across industries, including small and medium-sized enterprises.

**Question 32 – Unite response, A, B,C,D,E, F - see above**

**Question 33 – Unite response, H - see below**

Enhanced dismissal protections for pregnant women and new mothers are unlikely to give rise to unintended consequences, provided they are clearly drafted and properly enforced. Unite believes that there is no credible evidence that stronger dismissal protections discourage recruitment or lead to employers avoiding hiring women of childbearing age. Similar arguments have historically been made against equal pay, maternity leave and anti-discrimination laws, yet these protections are now widely accepted and form part of the normal legal framework. Discriminatory recruitment practices are already unlawful, and enhanced dismissal protections do not change employers' core responsibilities in this regard.

Unite believes that any claims that enhanced protections will increase litigation are overstated. Clear, robust protections are more likely to reduce disputes by providing certainty and discouraging unlawful dismissals in the first place. Where disputes do arise, clearer legal standards will simplify decision-making and reduce protracted litigation over motive or timing.

Enhanced protections could promote better workforce planning and management. Employers will be encouraged to consider alternatives to dismissal, such as redeployment, temporary adjustments or delayed decision-making, all of which are already recognised as good employment practice. This supports retention, reduces turnover costs and improves organisational stability.

Any risk of misuse can be addressed through careful drafting and enforcement. Clear definitions of protected periods, strict evidential tests and appropriate remedies will ensure that the protections operate as intended. The greater risk lies not in over-protection, but in continuing to tolerate a system in which pregnancy and maternity discrimination is widespread and routinely under-enforced.

**Question 34 – Unite response – see above and responses to questions regarding capability and SOSR**

**Question 36 – Unite response, A,B,C,D,E,F -see below**

Unite believes that pregnancy and maternity discrimination is driven by a combination of structural, cultural and economic factors, rather than isolated poor behaviour. From a trade union perspective, the main causes are systemic and well-evidenced.

A primary cause is employer bias and stereotyping about pregnant women and new mothers. Assumptions that women will be less committed, less productive, unreliable or no longer interested in progression frequently influence decisions about performance, redundancy, promotion and dismissal. These assumptions are often unconscious but have concrete consequences, particularly when combined with managerial discretion.

A second major cause is workplace cultures that prioritise long hours, constant availability and “ideal worker” norms. Pregnancy, maternity leave and caring responsibilities are viewed as disruption rather than a normal part of working life. In such environments, women who need adjustments, flexible working or time away from work are treated as problems to be managed rather than workers to be supported.

<https://pregnantthenscrewed.com/the-issues/pregnancy-discrimination/>

Lack of knowledge and understanding of legal rights among employers and managers is also a significant factor. Many managers are unaware of pregnancy and maternity protections or misunderstand their obligations, particularly around health and safety, redundancy, performance management and reasonable adjustments. This leads to unlawful decisions being taken through ignorance rather than overt intent.

<https://assets.publishing.service.gov.uk/media/5a80c23940f0b62305b8cfd1/BIS-16-147-pregnancy-and-maternity-related-discrimination-and-disadvantage-experiences-of-employers.pdf>

Closely linked is weak enforcement and low risk of consequences. Employers are aware that pregnancy and maternity discrimination is significantly under-reported and that many women are reluctant to challenge unfair treatment due to fear of retaliation, financial insecurity or stress during pregnancy or early motherhood. This reduces the deterrent effect of existing law and allows poor practice to persist.

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/448162/BIS-15-447-pregnancy-and-maternity-related-discrimination-and-disadvantage.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/448162/BIS-15-447-pregnancy-and-maternity-related-discrimination-and-disadvantage.pdf)

Organisational change, including restructuring, redundancy exercises and performance reviews, is another key driver. Pregnancy and maternity often coincide with periods when employers are making discretionary decisions about roles and staffing. Without strict safeguards, these processes provide cover for discriminatory outcomes, whether intentional or not.

<https://www.equalityhumanrights.com/research-report/pregnancy-and-maternity-related-discrimination-and-disadvantage>

Insecure work and power imbalances also play a significant role. Women in probationary roles, fixed-term contracts, agency work or low-paid sectors are less likely to challenge unfair treatment and more likely to be dismissed when pregnant or

returning from leave. The absence of strong collective voice in these workplaces increases vulnerability.

<https://pregnantthenscrewed.com/the-issues/pregnancy-discrimination/>

Finally, the unequal distribution of caring responsibilities between men and women reinforces discrimination. Because women continue to take the majority of maternity and caring leave, pregnancy and motherhood are treated as individual “choices” rather than societal norms, entrenching gender inequality in the workplace.

### **Question 37- Unite response – see below**

To tackle pregnancy and maternity discrimination effectively, the government must prioritise a package of legal, enforcement and cultural reforms that go beyond enhanced dismissal protections and address the systemic drivers of discrimination.

A key priority should be making interim relief more accessible and effective in pregnancy and maternity discrimination cases. Currently, interim relief is available in very limited circumstances and is rarely used, even though dismissal during pregnancy or maternity leave often causes immediate financial hardship and long-term career damage. The government should extend interim relief to cover all pregnancy and maternity-related unfair dismissal claims, simplify the application process, and ensure that tribunals can grant interim reinstatement or continued pay as a realistic and timely remedy. Without interim relief, many women are forced to abandon claims due to financial pressure, undermining enforcement.

The government should prioritise increasing tribunal compensation levels for pregnancy and maternity discrimination. Current awards often fail to reflect the seriousness of the harm caused, including loss of earnings, damage to career progression, pension loss and the emotional impact during pregnancy or early motherhood. Introducing higher minimum awards or uplifts for discrimination occurring during protected periods would strengthen deterrence and signal that pregnancy and maternity discrimination is a serious breach of the law, not a minor procedural failing.

Access to justice needs to be improved by removing practical barriers to bringing claims. This includes extending tribunal time limits for pregnancy and maternity cases, ensuring free, high-quality legal advice is available at an early stage, and strengthening protections against victimisation for those who raise concerns. Fear of retaliation remains a major barrier to enforcement and must be addressed directly.

Stronger enforcement and regulatory oversight is also essential. The government should empower and properly resource enforcement bodies, including the Equality and Human Rights Commission, to take proactive action against employers, rather than relying almost entirely on individual litigation. This should include the ability to investigate sectors with high levels of discrimination, issue binding recommendations, and impose penalties where systemic non-compliance is identified.

Another priority should be mandatory employer duties, including clear obligations to assess pregnancy and maternity risks, provide written information about rights, and

demonstrate compliance with enhanced protections. Employers should be required to evidence that dismissal decisions during protected periods meet strict legal tests, with failure to do so weighing heavily against a finding of fairness.

Finally, the government should prioritise collective enforcement and workplace culture change. This includes strengthening trade union access to workplaces, supporting the role of union equality representatives, and promoting collective bargaining around pregnancy and maternity protections. Collective mechanisms are critical to preventing discrimination before it occurs and ensuring that rights are understood and applied consistently.

Additional comments:

The chronic access to flexible working remains a significant barrier for working parents, particularly mothers, and can make the transition back to work after a period of leave especially challenging. Unite welcomes the strengthened rights to flexible working introduced by the Employment Rights Act 2025, but believes further steps are needed to make flexible working the norm rather than the exception. In particular, Unite supports the introduction of an advertising duty, requiring employers to consider and clearly set out the forms of flexibility available in a role at the point of recruitment. This would benefit mothers returning to work and would also help encourage greater take-up of flexible working by fathers and co-parents, supporting a more equal sharing of childcare responsibilities.

Unite also welcomes the introduction of mandatory gender pay gap action plans for employers within scope, as well as the proposals to extend reporting to ethnicity and disability as set out in the Make Work Pay agenda. For action plans to have real impact, Unite believes it is essential that they are grounded in robust evidence about the factors driving an organisation's gender pay gap. This will enable employers to identify and implement measures that are meaningful and effective for their specific workforce. A core requirement should be for employers to collect more detailed and higher-quality data, including information on the recruitment, retention and promotion of pregnant women and new parents, to ensure that action plans address the structural causes of inequality rather than relying on generic commitments.