



## Safety Bulletin 108

### Health and safety for new and expectant mothers

In support of International Women's Day (8 March 2009) the HSE decided to raise awareness of its guidance for new and expectant mothers. Following on from this, we have created this bulletin, contacting answers to some frequently asked questions, and a guide to the law.

#### What notification does an employee have to provide?

Whilst there are no legal requirements on employees to inform their employers that they are pregnant or a new mother they should bear in mind that their employer is not required to take any specific action until written notification has been provided. It is therefore important for the employee and her child's health and safety that employers should advise their employees to provide written notification as early as possible. Employers can also ask for a certificate from their employee's GP or midwife stating that she is pregnant.

#### What actions are employers required to take?

Employers should take action to ensure that their workers, who are or in the future could be a new or expectant mother, are not exposed to any significant risk. To get a better picture of how this should be done, see the flowchart below which provides an outline of the procedure.

There are two stages to the action employers must take.

#### **Stage one**

Employers should:

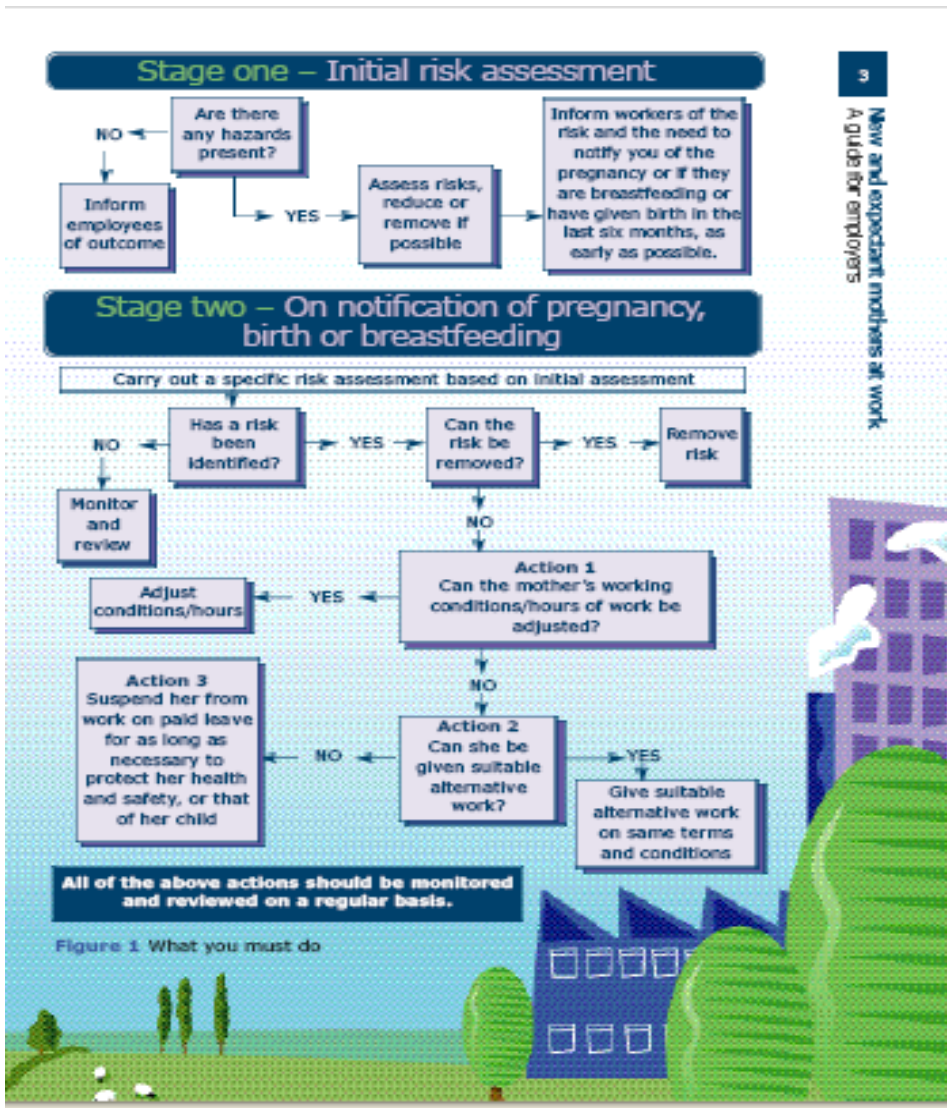
- ✚ Look for hazards/risks
- ✚ Decide who might be harmed and how
- ✚ Consult employees or their safety representatives and inform them of any risks identified
- ✚ Inform employees that it is important for them to provide written notification that they are pregnant or breastfeeding as early as possible.

#### **Stage two**

Employers should conduct a specific risk assessment on receipt of written notification from an employee that she is pregnant, has given birth in the last six months or is breastfeeding. This must take into account any advice provided by the woman's health professional.

If any risks are identified then employers must take action to remove, reduce or control the risk. If the risk cannot be removed employers must:

- ✚ **Action 1**  
temporarily adjust her working conditions and/or hours of work; or if that is not possible:
- ✚ **Action 2**  
offer her suitable alternative work (at the same rate of pay) if available; or if that is not feasible:
- ✚ **Action 3**  
Suspend her from work on paid leave for as long as necessary to protect her health and safety and that of her child.





What are the hazards/risks that could be harmful to new and expectant mothers?

The following checklist is a useful tool to help identify risks that could be harmful to the health and safety of new and expectant mothers and their children.

**Physical Hazards:**

- ✚ Awkward spaces and workstations
- ✚ Vibration
- ✚ Noise
- ✚ Radiation (covered by specific legislation).

**Biological Agents:**

- ✚ Infections

**Chemical Hazards:**

- ✚ E.g. chemical handling (handling drugs or specific chemicals such as pesticides, lead etc).

**Working Conditions:**

- ✚ Inadequate facilities (including rest rooms)
- ✚ Excessive working hours (night work etc)
- ✚ Unusually stressful work
- ✚ Exposure to cigarette smoke
- ✚ High or low temperatures
- ✚ Lone working
- ✚ Work at heights
- ✚ Travelling
- ✚ Exposure to violence



**What aspects of pregnancy could be made worse by the workplace?**

Aspects of pregnancy	Factors in work
'Morning', sickness Headaches	Early shift work, Exposure to nauseating smells
Backache	Standing Manual handling posture
Varicose veins	Standing/manual, handling/posture
Haemorrhoids	Working in hot conditions
Frequent visits to toilet	Difficulty in leaving job/site of work
Increasing size	Use of protective clothing Work in confined areas Manual handling
Tiredness	Overtime Evening work
Balance	Problems of working on slippery, wet surfaces
Comfort	Problems of working in tightly fitting work uniforms

**Can new and expectant mothers still work nights?**

Yes. Unless there is a specific work risk and her GP/Midwife has provided a medical certificate stating that she must not work nights. If this is the case then her employer must offer her suitable alternative day work on the same terms and conditions and if that is not possible, then suspend her from work on paid leave for as long as necessary to protect her health and safety and/or that of her child.

**What facilities do employers have to provide?**

The Workplace Regulations and Approved Code of Practice require employers to provide suitable facilities for pregnant and breastfeeding mothers to rest. Where necessary these should include somewhere for the woman to lie down. HSE recommends that it is good practice, for employers, to provide a private, healthy and safe environment for nursing mothers to express and store milk (but this is not a legal requirement). It is not suitable to use toilets for this purpose.



### What role does the new or expectant mother's health professional have in protecting her health and safety?

Health professionals play a vital role during a woman's pregnancy and following the birth of her child. In most cases primary care remains the only viable option for advice on work-related ill health. This means that if a new or expectant mother is experiencing health problems their first point of contact is her GP or Midwife.

It is important therefore that health professionals are aware of employers' responsibilities for managing work-related ill health and exposure to workplace risks.

Where health problems are being experienced, the health professional should consider, in discussion with the patient, what effect her working environment and conditions may have played. If any health problems are identified then health professionals can provide written advice, using a Med 3 statement, on the mother's health, which she can then give to her employer. Her employer is then obliged to take the advice into account when conducting a specific risk assessment. The Department for Work and Pensions' website provides more information on the uses of the Med 3 certificate [www.dwp.gov.uk](http://www.dwp.gov.uk)<sup>[7]</sup>.

### Should an expectant worker become ill and be unable to work, even if her illness results from her pregnancy, what is her entitlement?

Should an expectant worker become ill and be unable to work, this period is treated as sick leave and she would receive Statutory Sick Pay (SSP) from her employer if entitled. If she is not entitled to SSP she may be able to get Incapacity Benefit (Employment and Support Allowance from 27 October 2008) from Jobcentre plus.

However if she is sick at anytime in the period beginning with the 4th week before the week her baby is due and the illness is related to her pregnancy, her Statutory Maternity Pay or Maternity Allowance must start on the day after she was first absent from work for this reason in this 4 week period.

## **The Law**

Legislation affecting new and expectant mothers at work.

- ✚ Management of Health and Safety Regulations 1999 (MHSW)
- ✚ Workplace (Health, Safety and Welfare) Regulations 1992
- ✚ Employment Rights Act 1996 as amended by the Employment Relations Act 1999
- ✚ Sex Discrimination Act 1975

### ***Management of Health and Safety Regulations 1999 (MHSW)***

MHSW provides the legal requirements on employers to protect their employees who are or in the future could be a new or expectant mother.

Employers are required to assess risks to all their employees and to do what is reasonably practicable to control those risks. They must include any hazards/risks to new and expectant mothers, when conducting this risk assessment.



It is important that female employees inform their employers that they are pregnant, have given birth in the previous six months or are breastfeeding. The notification should be given in writing, as early as possible.

When employers receive written notification from an employee that she is pregnant, has given birth within the previous six months or is breastfeeding, they must conduct a specific risk assessment. The assessment must take into account any advice provided by the woman's GP or Midwife on her health.

If any risks are identified then employers must take action to remove, reduce or control the risk. If the risk cannot be removed employers must:

- ✚ **Action 1**  
Temporarily adjust her working conditions and/or hours of work; or if that is not possible
- ✚ **Action 2**  
Offer her suitable alternative work (at the same rate of pay) if available; or if that is not feasible
- ✚ **Action 3**  
Suspend her from work on paid leave for as long as necessary to protect her health and safety and that of her child.

MHSW also states that where a new or expectant mother works nights and provides a medical certificate from her GP or Midwife which says that working nights will affect the health of the woman, then the employer must suspend her from work, on full pay, for as long as necessary. However, the Employment Rights Act 1996 provides that where appropriate, suitable alternative work should be offered, on the same terms and conditions, before any suspension from work.

### ***Workplace (Health, Safety and Welfare) Regulations 1992***

The Workplace Regulations require employers to provide suitable rest facilities for workers who are pregnant or breastfeeding. The facilities should be suitably located (e.g. near to toilets) and where necessary should provide appropriate facilities for the new or expectant mother to lie down.

### ***Employment Rights Act 1996 as amended by the Employment Relations Act 1999***

The Employment Rights Act requires employers, when offering suitable alternative, to ensure that the work is:

- ✚ suitable and appropriate for her to do in the circumstances; and
- ✚ on terms and conditions no less favourable than her normal terms and conditions.

### ***Sex Discrimination Act 1975***

Any breach of health and safety legislation in relation to new and expectant mothers is considered automatic sex discrimination.



There is no length of service qualification and the Act gives protective rights to a broad range of workers including the self-employed, agency workers, apprentices, and voluntary workers, depending on the nature of their contract.

**If you require any further information, clarification or assistance with the above, then please do not hesitate to contact us;**

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**Source** –Health and Safety Executive (HSE)  
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