

**CMI RESPONSE TO GOVERNMENT
CONSULTATION ON PREGNANCY AND
MATERNITY DISCRIMINATION: EXTENDING
REDUNDANCY PROTECTION FOR WOMEN AND
NEW PARENTS**

APRIL 2019

CMI RESPONSE

EXTENDING REDUNDANCY PROTECTION FOR WOMEN AND NEW PARENTS: CONSULTATION¹

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EXECUTIVE SUMMARY

The Equality Act 2010 sets out how there is currently a 'protected period' whereby women who are pregnant or have recently given birth are explicitly protected from discrimination. This protected period runs from the start of pregnancy until the woman returns to work, or two weeks after the end of pregnancy if the woman is not entitled to maternity leave.

Joint research between the Department for Business, Innovation and Skills (BIS) and the Equality and Human Rights Commission (EHRC) showed the existence of pregnancy and maternity discrimination in the workplace². It is clear a change in workplace culture is needed.

CMI is a long-standing campaigner for gender equality in the workplace, publishing *A Blueprint for Balance* report in January 2018³.

As a starting point we support an extension of redundancy protection, but a change in legislation is just part of the solution. Employers should review and improve their working practices and this must be supported by a commitment from managers and leaders.

The key recommendations of our response are:

- as a starting point we welcome the notion that greater protection should be provided against redundancy for women throughout pregnancy and maternity leave and for six months afterwards. However, the Government should consider extending this further to 9 to 12 months to ensure there is enough time for a new parent to settle back into the workplace;
- a change in workplace culture is needed. Organisations should adopt good practice approaches such as: promoting return-to-work programmes, promoting flexible working, training for line managers and balanced recruitment; and
- the role of senior leaders and managers is critical when it comes to creating balanced, inclusive workplaces.

¹ BEIS (2019), *Pregnancy and Maternity Discrimination*

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/773179/extending-redundancy-protection-for-pregnant-women.pdf

² BIS and EHRC (2016), *Pregnancy and Maternity Discrimination Research Findings*

<https://www.equalityhumanrights.com/en/managing-pregnancy-and-maternity-workplace/pregnancy-and-maternity-discrimination-research-findings>

³ CMI (2018), *A Blueprint For Balance*

<https://www.managers.org.uk/~media/Files/PDF/Blueprint%20for%20Balance%20Broken%20Windows%20Full%20Report.pdf>

Our recommendations are set out in full at [Annex A](#).

We look forward to discussing our response with Government in due course.

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1. INTRODUCTION

CMI

- 1.1 CMI is the chartered professional body for management and leadership. We are dedicated to improving managers' skills and growing the number of qualified managers and leaders across the UK.
- 1.2 With a member community of over 100,000, CMI provides individual students, managers and employers with access to the latest management thinking and practical support to help them embrace change, build high-performing teams and improve individual and organisational performance. We are a UK awarding body for management and leadership qualifications and the only body that awards Chartered Manager – the hallmark of any professional manager.
- 1.3 Our vision is to create better led and managed organisations. This means ensuring the best people are able to progress into management and leadership roles.

CMI Women

- 1.4 CMI has been advocating gender balance since 1969 when we launched the Women in Management initiative. In 2016, we relaunched Women in Management under the new banner of CMI Women⁴. CMI Women is a network within the CMI.
- 1.5 We engaged with members of CMI Women to help inform our consultation response.

2. BACKGROUND

- 2.1 CMI and many others have set out in recent years the benefits of gender balance, as well as the scale of the challenges we still face to achieve it.
- 2.2 The evidence is clear: diversity delivers results. McKinsey have calculated that improving diversity could add £150 billion a year to the UK economy by 2025⁵.

Our research

- 2.3 In January 2018, CMI published *A Blueprint For Balance*⁶ which charts employers' current approaches to achieving gender balance and showcases the best-in-class practices that are starting to achieve real change.

⁴ <https://www.managers.org.uk/cmi-women>

⁵ McKinsey Global Institute and McKinsey & Company United Kingdom (2016), *The Power of Parity: advancing women's equality in the United Kingdom*, p.1
<https://www.mckinsey.com/~/media/McKinsey/Featured%20Insights/Women%20matter/The%20power%20of%20parity%20Advancing%20womens%20equality%20in%20the%20United%20Kingdom/Power-of-parity-Advancing-womens-equality-in-the-United-Kingdom-Full-report.ashx>

⁶ CMI (2018), *A Blueprint For Balance*
<https://www.managers.org.uk/~/media/Files/PDF/Blueprint%20for%20Balance%20Broken%20Windows%20Full%20Report.pdf>

2.4 However, it also showed that many organisations have much more to do, revealing the “broken windows” of gender bias that still - for far too many women - mar the reality of work.

3. EXTENDING REDUNDANCY PROTECTION IS A STARTING POINT

We support extending redundancy protection...

3.1 As set out in the Women and Equalities Select Committee report⁷, as a starting point we welcome the notion that greater protection should be provided against redundancy for women throughout pregnancy and maternity leave and for six months afterwards. However, **the Government should consider extending this further to 9 to 12 months to ensure there is enough time for a new parent to settle back into the workplace.**

3.2 In order to create more balanced workplaces, the Government should also extend this redundancy protection to other groups who are taking a career-break. For example, those taking same sex parental leave, adoption leave, surrogacy and those who have taken on a significant new caring role.

...but a change in legislation is just part of the solution.

3.3 A change in workplace culture is needed to create truly balanced and inclusive workplaces. There needs to be better guidance and information for women so that they feel empowered to make the changes that meets their own individual circumstances. Organisations should adopt good practice approaches such as:

- Promoting return-to-work programmes;
- Promoting flexible working practices;
- Awareness training for line managers; and
- Balanced recruitment

3.4 The Government should consider providing increased financial support for small and medium-sized enterprises (SMEs) who may be the bearers of the brunt of this legislation in the attempt to protect women. There is a risk smaller organisations could become wary of employing potential new parents if the legislation is too inflexible.

3.5 But critically, it is the role of senior leaders and managers that changes workplace culture. They play a pivotal role in changing behaviour, creating balanced workplaces and are decisive in the success or failure of efforts to create balance.

4. THERE ARE STILL CLEAR BARRIERS THAT EXIST FOR THOSE TAKING UP PARENTHOOD

4.1 Joint research between the Department for Business, Innovation and Skills (BIS) and the

⁷ House of Commons Women and Equalities Committee (2016), *Pregnancy and Maternity Discrimination*, p.24 <https://publications.parliament.uk/pa/cm201617/cmselect/cmwomeq/90/90.pdf>

Equality and Human Rights Commission (EHRC) showed, “around one in nine mothers (11%) reported that they were either dismissed; made compulsorily redundant, where others in their workplace were not; or treated so poorly they felt they had to leave their job”⁸.

- 4.2 While “one in five mothers said they had experienced harassment or negative comments related to pregnancy or flexible working from their employer and/or colleagues”⁹.

5. IT IS CLEAR A CHANGE IN WORKPLACE CULTURE IS NEEDED

Employers should review and improve their working practices...

Enhance return-to-work programmes for career-break returners

- 5.1 Parenthood is widely recognised as one of the most critical challenges facing women’s career progression. But leading employers do not accept that it must mean women are condemned to fall behind their male peers as their careers progress.
- 5.2 CMI has called for employers to draw on their Apprenticeship Levy funding to support returners, by dedicating one in ten Apprenticeships to parental returners. Leading employers meanwhile are actively working to support parents returning to the workplace.

Case study

Deloitte’s Women in Leadership action plan includes activities to increase the number of women the firm recruits, to ensure development opportunities are clearly available and to provide a working environment enabling women to balance a successful career with family life or other commitments outside the workplace. Other key elements of the plan to help advance women included a return-to-work programme for individuals who have been out of professional services workforce for more than two years; coaching for primary carers returning from maternity/parental leave (and mandatory sessions for their line managers) about balancing career and family; and an advocacy-based sponsorship programme. Deloitte also offers flexible or agile working for all. (*A Blueprint for Balance p.18*)

- 5.3 Employers should ensure there is engagement during maternity or paternity leave, by having regular contact and information sharing taking place whilst the new parent is away from the workplace so that a return to work is not so challenging.
- 5.4 Employers should also consider phased transitions for those who are returning from career breaks to help them settle back into the workplace. For example, having an initial three to six month period of working part-time before returning full-time.

⁸ BIS and EHRC (2016), *Pregnancy and Maternity Discrimination Research Findings*
<https://www.equalityhumanrights.com/en/managing-pregnancy-and-maternity-workplace/pregnancy-and-maternity-discrimination-research-findings>

⁹ Ibid.

Promote flexible working practices

- 5.5 Flexible working is an important component of creating gender balance for two main reasons. Firstly, allowing women to work flexibly - for family or non-family reasons - and produce the same output as non-flexible workers allows them to have the same opportunities for promotion. Secondly, and simultaneously, allowing men to work flexibly can make it easier for families to rebalance family duties.
- 5.6 For example, two-thirds of managers agree that flexible working has supported their career. This is particularly true for female managers - 71%, compared to 57% among male managers¹⁰. Furthermore, 64% agree that it creates a more family-friendly culture¹¹.
- 5.7 Those managers who use flexi-time, working from home on occasion and job sharing were the most likely to give their organisation top marks on the question of whether its flexible working practices support gender diversity¹². These arrangements can be crucial in allowing women to stay in employment after childbirth¹³.
- 5.8 However, recent CMI research¹⁴ has shown that more can be done to raise awareness of the different types of flexible working available. For example, although 74% of managers were aware of the statutory right to request flexible working, only half (50%) of managers think an employee has a statutory right to ask their employer to change the hours they are required to work after 26 weeks of employment, while only 32% of managers think an employee has a statutory right to ask their employer to change where they are required to work.
- 5.9 CMI, along with other members of the Government's Flexible Working Task Force, is calling on employers to advertise jobs of all levels and pay grades as flexible by including the strapline: 'Happy To Talk Flexible Working'.

Balanced recruitment

- 5.10 Employers need to stop seeing career breaks as a shortcoming and recognise the value of alternative skill sets and experience, and assess potential: the best appointment is sometimes the candidate who will excel in six months' time.
- 5.11 Leading employers use a range of measures throughout the recruitment cycle to create balance. They include using gender-neutral job descriptions, blind-sifting applications, diverse interview panels and insisting on diverse candidate lists¹⁵.
- 5.12 Furthermore, CMI research¹⁶ has shown a large proportion of managers report having received training that can support gender-balanced recruitment, such as interview

¹⁰ CMI survey of 856 managers (*A Blueprint For Balance*)

¹¹ Ibid.

¹² Ibid.

¹³ Chung, H. & van der Horst, M. (2018), 'Women's Employment Patterns After Childbirth and the Perceived Access to and use of Flexitime and Teleworking', *Human Relations*, 71:1, pp.47-72

¹⁴ CMI (2018) Managers Voice research, a survey of 940 UK-based members undertaken between 6th November and 4th December 2018, unpublished

¹⁵ CMI (2018), *A Blueprint For Balance*

¹⁶ CMI survey of 856 managers (*A Blueprint For Balance*)

questioning (70%).

Case study

When recruiting for its own organisation, Harvey Nash applies the same best practice for gender balance as it does with its clients, resulting in a diverse team, not only in terms of gender, but also age, race and ability. The firm follows a robust and fair recruitment process that relies on gender-neutral language in job descriptions, gender balanced short-lists, and having candidates meet several team members to ensure there is a broad range of feedback on a candidate's fit. (*A Blueprint for Balance p.13*)

...but this must be supported by a commitment from managers and leaders.

Leadership and management

- 5.13 One of the themes to emerge from our previous research¹⁷ was that where organisations are having demonstrable success on gender balance, leaders had typically made it a business issue - core to how the organisation is managed - rather than an HR issue which might be too easily sidelined in the face of competing priorities.
- 5.14 Middle managers can sometimes take the lead on creating change by supporting return-to-work employees. They also play a critical role in changing attitudes. They must be trained and supported to help their team members work flexibly.
- 5.15 In order to help new mothers have a smooth return to the workplace, employers should also make use of awareness training for managers, supervisors and HR staff. Managers need to be enabled and empowered to call out discrimination.

Case study

The Royal Air Force (RAF) recognises that retaining and advancing women requires more than policies to ensure regulatory compliance – it means changing the organisational culture. One key component was a foundational education programme called Face It, Fix It, specifically tailored to reflect the types of people and scenarios relevant in the RAF.

The programme, which is mandatory across the RAF, focused on how to create an inclusive work environment and address inappropriate behaviour, immediately and effectively. This served as a strong platform for clarity and mutual understanding about what constitutes unacceptable behaviour, which helps make it easier to spot and call out. (*A Blueprint for Balance p.27*)

- 5.16 A summary of our response is attached at [Annex A](#).

¹⁷ 53 in-depth manager interviews (*A Blueprint For Balance*)

EXTENDING REDUNDANCY PROTECTION FOR WOMEN AND NEW PARENTS: SUMMARY OF CMI RESPONSE

- As a starting point we welcome the notion that greater protection should be provided against redundancy for women throughout pregnancy and maternity leave and for six months afterwards. However, the Government should consider extending this further to 9 to 12 months to ensure there is enough time for a new parent to settle back into the workplace.
- In order to create more balanced workplaces, the Government should also extend this redundancy protection to other groups who are taking a career-break. For example, those taking same sex parental leave, adoption leave, surrogacy and those who have taken on a significant new caring role.
- The Government should consider providing increased financial support for small and medium-sized enterprises (SMEs) who may be the bearers of the brunt of this legislation in the attempt to protect women.
- A change in legislation is just part of the solution. A change in workplace culture is needed. Organisations should adopt good practice approaches such as: promoting return-to-work programmes, promoting flexible working practices, training for line managers and balanced recruitment.
- But critically, it is the role of senior leaders and managers that changes workplace culture. They play a pivotal role in changing behaviour, creating balanced workplaces and are decisive in the success or failure of efforts to create balance.