

Redundancy, Pregnancy and new parents briefing - 2024

Rights of pregnant employees and new parents

Pregnant employees and some new parents have special protection in a redundancy situation.

By law (Employment Rights Act 1996), the employer must offer them a suitable alternative vacancy, if there is one.

The law applies to any employee at risk of redundancy and who is either:

- pregnant
- taking maternity leave
- taking adoption leave
- taking shared parental leave.

The law does not apply to other types of leave, for example paternity leave.

Redundancy has a particular meaning under the Employment Rights Act¹ but in some cases the ending of a fixed-term contract will constitute a redundancy dismissal so these protections may apply when a fixed-term contract is coming to an end, or when fixed-term funding is ending.

Changes to the law 2024

Changes to the law from April 2024² mean that employees who are pregnant, on maternity leave, taking adoption leave or taking shared parental leave have an extended period of redundancy protection (see below for periods of protection). These changes significantly increase the protected redundancy period.

¹ <https://www.legislation.gov.uk/ukpga/1996/18/section/139>

² [Protection from Redundancy \(Pregnancy and Family Leave\) Act 2023](#)

During this protected period, if a post is at risk of redundancy (for any reason), an employee must be offered a suitable alternative vacancy if there is one. This is a stricter obligation than the general obligation to seek alternative employment.

Anyone who has this redundancy protection has priority over other employees. This applies even if other the vacancy is also suitable for other employees. If there are more employees within their protected period for whom vacancies are suitable than there are vacancies, then the employer will have to consider who is most suitable.

If this does not happen it may be automatically unfair dismissal.

That means that institutions should assess 'suitability' and identify suitable vacancies fairly, and that ensures that employers offer any employment found to be suitable to someone who is within the protected period without any competitive process (unless as mentioned above there is a specific reason around more employees in their protected period for whom a vacancy is suitable than vacancies available)

The protected redundancy periods are as follows:

Pregnancy and maternity:

- starts when an employee tells their employer that they are pregnant
- ends 18 months from the exact date the baby is born (if an employee does not tell their employer the exact date, the protected period ends 18 months from the expected week of childbirth).

If there is a stillbirth or miscarriage

- The redundancy protected period starts when an employee tells their employer that they are pregnant.
- If an employee has a miscarriage within the first 24 weeks of pregnancy, the redundancy protected period ends 2 weeks from the end of the pregnancy.
- If a child is stillborn after 24 weeks of pregnancy, the redundancy protected period ends 18 months from the date of the birth.

Adoption leave

The redundancy protected period starts on the day someone's adoption leave begins.

It ends 18 months from either:

- the date the adoption placement starts
- the date the child enters England, Scotland, or Wales, if it's an overseas adoption.

Shared parental leave

The redundancy protected period starts on the day a period of shared parental leave begins.

If an employee takes:

- less than 6 weeks leave – the protected period ends on the last day of the block of leave
- 6 weeks or more of continuous leave – the protected period ends 18 months from the date of the child's birth
- If the employee takes discontinuous leave, the redundancy protected period finishes at the end of each period of shared parental leave.

Example 1

Jo went on maternity leave on 1 June 2023 and her baby was born on 15 June. She returned to work on 18 March 2024.

In August 2024 Jo's employer announced that they were cutting her team from 5 staff to 4 staff, all carrying out the same duties.

Jo is still in her redundancy protection period (that will run until December 2024 – 18 months after her baby's birth) so is entitled to one of the 4 posts that are remaining without competition.

Example 2

Amy took adoption leave starting on 1 January 2024 (the date the adoption started) and returned to work on 1 July 2024.

There is a reorganisation happening in her workplace and her role is being deleted. Amy's redundancy protection period is still in place (until June 2025), so she is entitled to any suitable vacancy if her post is at risk of redundancy.

Example 3

Luke is employed on a fixed-term contract that is due to end in August 2024. Luke takes 4 weeks of shared parental leave when his baby is 6 months old in early April 2023. He returns to work in early May 2024. When Luke's position is at risk of redundancy in August, he is no longer in a redundancy protection period (that ended when his period of shared maternity leave ended) and the normal processes relating to a redundancy situation will apply.

Example 4

Luke is employed on a fixed-term contract that is due to end in August 2024. Luke takes 6 weeks of shared paternity leave when his baby is 6 months old in April 2023. He returns to work in mid May 2024. When Luke's position is at risk of redundancy in August, he is still in a redundancy protection period (that runs until his baby is 18 months old) so must be offered any suitable vacancy that is available, without competition.

Action for branches

- Ensure local policies and procedures are up to date and that your employer is fully aware of the extended legal rights of those who have a protected redundancy period
- Make sure members, especially those on fixed-term contracts, are aware of these rights.