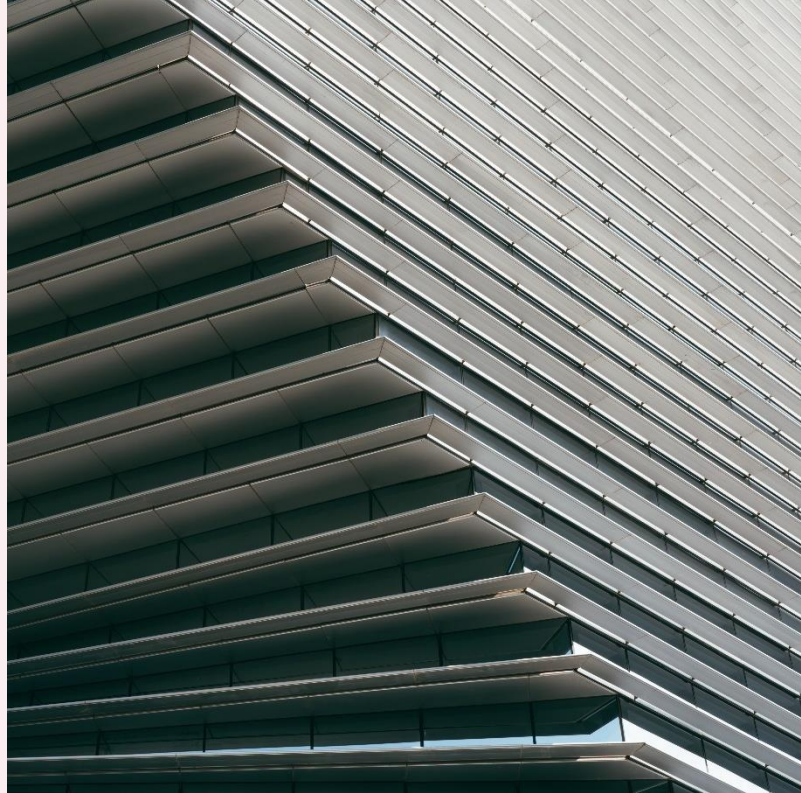


CONSULTATION: ENHANCED DISMISSAL PROTECTIONS FOR PREGNANT WOMEN AND NEW MOTHERS

November 2025



Key issues

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The Government has launched a [Consultation](#) (CP) with the policy aim of strengthening workplace protections against dismissal for pregnant women and new mothers. It is anticipated that any measures will be implemented in 2027.

If new dismissal protections are implemented, they will set a much higher bar for employers to justify dismissing pregnant women and new mothers during the protected period, requiring clear evidence of necessity and significant risk or harm. This represents a significant potential shift in the balance of employment protections and employer flexibility with significant legal and practical implications particularly in relation to HR policies, recruitment, and risk management.

Set out below is a high-level overview of the proposed reforms and practical implications.

REASONS FOR DISMISSAL

There are currently five potentially fair reasons for dismissal: conduct, capability, redundancy, illegality, some other substantial reason (SOSR)—such as an irreparable breakdown in working relationships or a conflict of interest.

The CP seeks views on:

- whether a new, stricter test should be introduced to assess the fairness of dismissals of pregnant women and new mothers for any of the five reasons (option 1); or
- whether the availability of each of the fair reasons should be narrowed and/or some removed entirely; (such as limiting conduct dismissals to gross misconduct or excluding capability and SOSR as grounds for dismissal)(option 2).

NEW STRICTER TEST

The CP explores replacing the current 'range of reasonable responses' test for fairness with a new stricter test requiring the employer to show that dismissal is necessary to avoid a significantly detrimental effect on the business, a health and safety risk to customers, staff, or the public, or a serious negative impact on the wellbeing of others.

SOSR, CONDUCT AND CAPABILITY DISMISSALS

In relation to option 2 the CP explores how each of the 5 fair reasons can be narrowed/removed as set out below.

The CP explores whether SOSR, conduct and capability dismissals should each remain possible or be excluded entirely in the case of SOSR and capability dismissals.

Alternatively, the CP explores whether a conduct dismissal could be limited to gross misconduct situations, and SOSR and capability dismissals permitted only if no suitable alternative role exists or one was offered and turned down (in a SOSR dismissal scenario).

A further, considerably more restrictive approach is that an SOSR, conduct or capability dismissal would only be permitted where continued employment gives rise to a health and safety risk, serious negative impact on the wellbeing of others, or would seriously harm the business. What would amount to serious harm is unclear.

REDUNDANCY DISMISSALS

Enhanced redundancy protections already apply to pregnant women and new mothers, including the right to be offered any suitable alternative vacancy if their role is redundant during the protected period (from the date of notification of pregnancy to 18 months from the birth of the child).

The CP considers whether redundancy dismissals should:

- Remain possible for any redundancy, provided a suitable alternative vacancy is offered; or
- Be limited to situations where there is no suitable alternative vacancy, and where the redundancy dismissal would mitigate any financial difficulties that were affecting – or were likely to affect in the immediate future – the employer's ability to continue the business; or
- Be permitted only where the business/organisation ceases to exist and no suitable alternative vacancy is available.

Some of the options mooted could potentially render it unlawful to dismiss a pregnant employee or new mother in a scenario that would currently be treated as a genuine redundancy situation; for example, in the case of a reorganisation or restructuring where departments are merged or roles are streamlined for efficiency – this would be an insufficient to dismiss unless tied to pressing financial needs.

WHEN WOULD WOMEN BE ELIGIBLE FOR ENHANCED DISMISSAL PROTECTION

The CP moots a number of options on when someone would be entitled to the enhanced dismissal protections:

- When the employment relationship begins (e.g. when a contract is signed); or
- From the day the employee starts work; or
- After an initial period of employment of between 3-9 months, aligned with a typical probation period.

COMMENCEMENT OF PROTECTED PERIOD

The existing enhanced redundancy protections start when the employee tells her employer she is pregnant. Options considered in the CP for commencement of the enhanced dismissal protection period include:

- When the employee becomes pregnant; or
- When the employee becomes aware that she is pregnant; or
- When an employee informs her employer that she is pregnant.

DURATION OF ENHANCED DISMISSAL PROTECTION PERIOD

- 18 months from the birth of the child – aligning with the current redundancy protections (i.e. regardless of when the employee returns to work after maternity leave); or
- Six months from the return to work (the 'return to work' being the end of the Maternity Leave period).

ENHANCED DISMISSAL PROTECTION FOR OTHER PARENTS

The Government is also considering whether the enhanced dismissal protections should also apply to other parents, for the time they are on leave and for a time after they have returned to work. Shared parental

leave, adoption leave, neo natal and bereavement leave would be in scope but paternity leave would not be in scope because of its short duration.

UNINTENDED CONSEQUENCES

The Government is acutely aware that various unintended consequences could flow from enhanced protections being introduced; such as

- Increased discrimination – hesitancy in or avoiding hiring women of childbearing age.
- Negative perception of workplace fairness/culture.
- Employers delay dismissal decisions until after protection period lapses.
- Negative impact on hiring generally
- Legal uncertainty - employers avoiding fair dismissal due to litigation risk.
- Additional administrative burden (e.g. additional documentation).
- Unsustainable or unrealistic asks on small businesses.

and is seeking views on the possible consequences and how they can be mitigated.

TIMEFRAME

The consultation closes on 15 January 2026, with implementation of new measures anticipated in 2027 (either April or October).

Practical implications

If an enhanced dismissal protection regime is implemented (whether option 1 or 2) employers should consider the potential implications and plan accordingly.

- *Review and Update HR Policies:* Existing disciplinary, capability, redundancy, and dismissal policies will need to be reviewed and updated to reflect the new legal requirements and stricter tests.
- *Enhanced Record-Keeping and Documentation:* record keeping systems will have to be revised to ensure that protected periods are tracked to ensure ongoing compliance.
- *Robust documentation of decision-making processes* will be essential, detailing the efforts to redeploy affected employees, and the rationale for any dismissal during the protected period, to demonstrate compliance if challenged.
- *Communication/Staff Awareness/training:* it will be essential to ensure that staff and management understand the new protection; this may necessitate revisions to handbooks, onboarding materials alongside internal communications and training.
- *More complex workforce planning:* The inability to dismiss for certain reasons or a stricter test during the protected period may affect workforce planning, flexibility, and cost management, particularly in smaller organisations.

[Consultation: Make Work Pay: Enhanced dismissal protections for pregnant women and new mothers](#)

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