UK Seeks to Update Laws Against Pregnancy Discrimination

By Leah Shepherd

May 28, 2019

REUSE PERMISSIONS

The United Kingdom (U.K.) may soon strengthen laws that protect women and men from layoffs before and after maternity leave and after adopting a child.

The U.K. government's Department for Business, Energy and Industrial Strategy recently finished

Feedback

The U.K. parliament's Women and Equalities Committee recently promoted these steps to address discrimination:

- Require large employers to report retention rates for women who give birth.
- Extend the layoff protection period to six months after the end of maternity leave. Currently, it ends when the employee returns to work.
- Expand the layoff protections to apply to employees who took shared parental leave—time off for new spouses or partners when mothers end their maternity leave early—or adoption leave.
- Consider lengthening the time limit for making discrimination claims to six months. Currently, it is three months.

"Our inquiry heard shocking stories of workplace discrimination and of the emotional, physical and financial impact on women," said Maria Miller, chair of the committee and a member of parliament for Basingstoke, England. "At present, the burden of enforcement rests too heavily with the individual experiencing discrimination, so there must be a new mechanism to increase compliance by employers if women's lives are to be improved."

She noted that there has been little improvement since the committee released a report on the topic in 2016.

Legal Overview

In the U.K., the Equality Act protects women from discrimination related to pregnancy and maternity. The legal protection starts when she becomes pregnant and ends when she returns to work. Treatment that negatively impacts an employee because of her pregnancy or maternity may be discriminatory, even if other workers are treated the same way.

Many employers have an attendance policy that states employees may face warnings, disciplinary measures or termination if they miss too many work days. An employer cannot include absences because of pregnancy or pregnancy-related illness when counting the number of days absent. Negative comments and warnings about absences because of pregnancy or pregnancy-related illness are considered discriminatory.

An employer also cannot reduce a woman's pay or ask her to make up missed time at work for going to a prenatal medical appointment.

Employers should have a written policy on pregnancy and maternity and train supervisors on how to properly manage pregnancy and maternity leave without discriminating. The company policy and training should take into consideration health and safety risks for pregnant women and breast-feeding mothers. For health and safety reasons, businesses may need to adjust work hours, change work conditions or provide alternative work.

Employers must provide a suitable place for pregnant employees to rest. Because each person has a different medical history and health status, managers should understand that pregnancy can impact individuals differently.

An employer must not pressure an employee to work during maternity leave or return to work sooner than she wants.

Promotions and Layoffs

If job openings or promotion opportunities occur while an employee is on maternity leave, her supervisor should tell her about it. Employers should not discourage someone from applying for a job or reject her application because she is pregnant or on maternity leave, according to the report.

Decisions about performance appraisals, probation periods, promotions and firings should not be influenced by a woman's pregnancy or maternity leave. An employee can be disciplined, laid off or fired while pregnant or on maternity leave, so long as the reason for the action is genuine, fair and unrelated to her pregnancy or maternity, the report noted.

Before any company reorganization or layoffs, inform employees who are absent due to pregnancy or maternity leave. Failure to do so could put them at a disadvantage and be discriminatory.

In such cases, before laying off an employee who is on maternity leave, an employer must offer her—not just invite her to apply for—a suitable alternative job, if one is available, according to the report. Make sure employees who are absent due to pregnancy or maternity leave learn about upcoming tests or requirements for alternative roles that will be available.

If an employee wins a discrimination case, a tribunal may require the employer to pay compensation, make changes to reduce the adverse effects of discrimination, or reinstate someone who has been laid off.

Webb said the compensation "would usually be calculated based on the employee's loss of earnings and job benefits, both in terms in what they have suffered because of the discrimination and the impact on them going forward, and possibly include compensation for injury to feelings."

There are other practical, economic reasons for employers to be flexible with pregnant employees and new mothers. Recruiting and developing staff come with significant costs, so "it makes sound business sense to protect this investment by focusing on retaining your female talent after they have taken time out for family reasons," said Sybille Raphael, head of legal services for Working Families, a U.K. organization that provides legal advice and advocates on behalf of working parents. "Enhanced maternity provision leads to being seen as an employer of choice."

In addition, Raphael said, women returning to work after pregnancy "often come back with fresh enthusiasm and a new perspective, especially if they feel they have been well-supported" and kept informed of key developments while they have been on leave. "This diversity of thought and approach can benefit your business."

Leah Shepherd is a freelance writer in Columbia, Md.

EMPLOYEE RELATIONS | EUROPE | GLOBAL HR COMPLIANCE | GLOBAL AND CULTURAL EFFECTIVENESS | EMPLOYEE RELATIONS--GLOBAL

REUSE PERMISSIONS

Find an HR Job Near You

CITY, STATE, ZIP

SEARCH JOBS

Post a Job

MOST POPULAR

2020 HSA Limits Rise Modestly, IRS Says

Cash Remains King: New Survey Confirms Pay Is Key to Keeping Workers

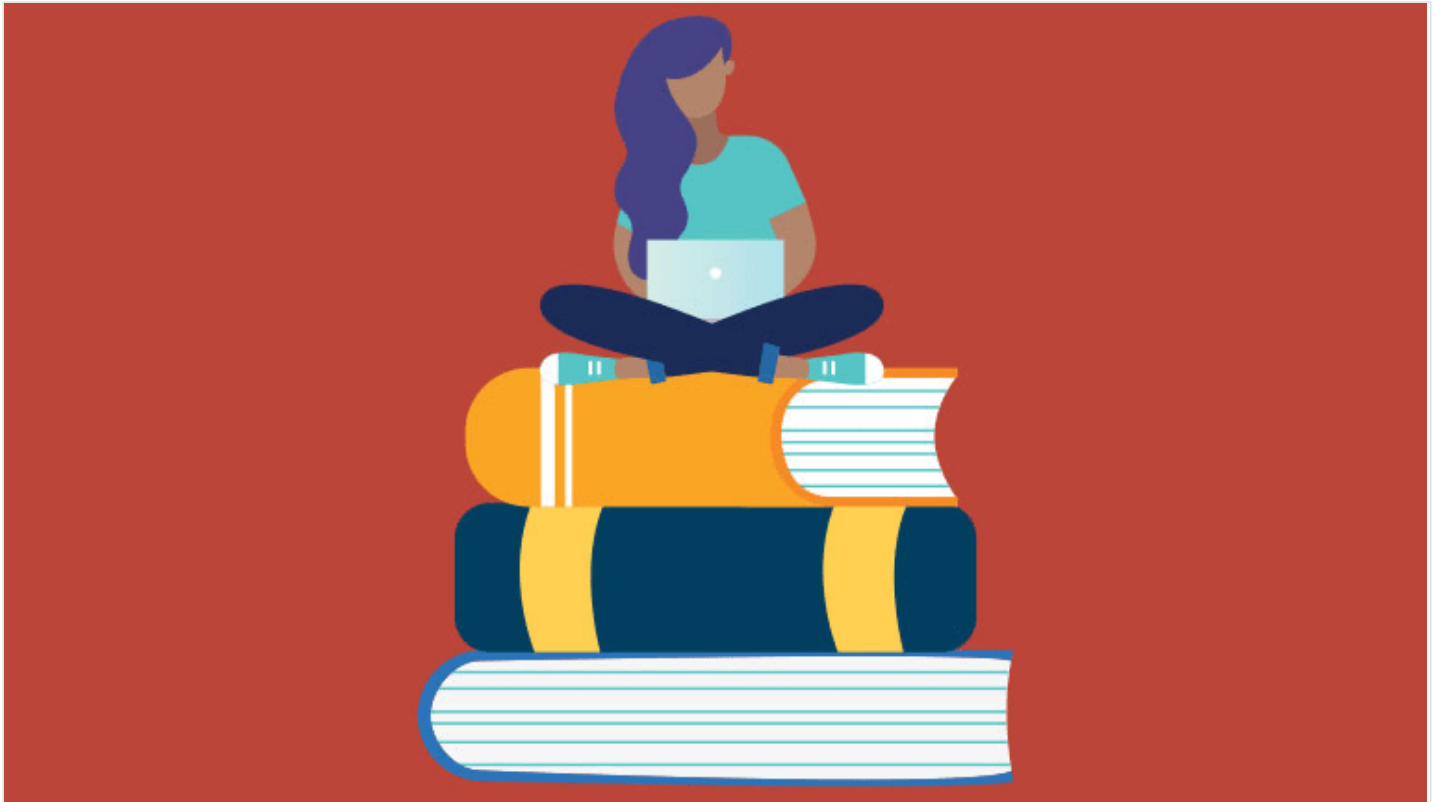Employers Fight the Stigma Around Mental Health

SHRM WEBCASTS

p.m. PT

REGISTER TODAY

YOU MAY ALSO LIKE

California HR: Applying CA Law to Employment Practices - Leg Conference

EMPLOYEE RELATIONS

Best and Worst Jobs Unveiled, but Can Workers Be Happy Even if Stressed and Underpaid?

Why Are Companies Ending Remote Work?

Viewpoint: Accommodating Employees with a Terminal Illness

SPONSOR OFFERS

Find the Right Vendor for Your HR Needs

SHRM's HR Vendor Directory contains over 10,000 companies

SEARCH & CONNECT

Stay Informed with SHRM Newsletters

SIGN UP TODAY

JOIN THE CONVERSATION

SHRM

About SHRM

Bylaws & Code of Ethics

Council for Global Immigration

SHRM Global ⌄

Membership

Press Room

HR People + Strategy

WORK FOR SHRM

Career Opportunities

ELEVATE HR

SHRM Foundation

DONATE

WORK WITH SHRM

Speakers Bureau

Advertise with Us

Copyright & Permissions

Post a Job