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From: Equality and Human Rights Commission

## **Equality and Human Rights Commission response to the Inquiry into pregnancy, maternity and work in Wales**

### **About the Equality and Human Rights Commission**

The Equality and Human Rights Commission (the Commission) is a statutory body established under the Equality Act 2006. It operates independently to encourage equality and diversity, eliminate unlawful discrimination, and protect and promote human rights. It contributes to making and keeping Britain a fair society in which everyone, regardless of background, has an equal opportunity to fulfil their potential. The Commission enforces equality legislation on age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. It encourages compliance with the Human Rights Act 1998 and is accredited by the UN as an 'A status' National Human Rights Institution. Find out more about the Commission's work at: [www.equalityhumanrights.com](http://www.equalityhumanrights.com).

### **Introduction**

The Commission welcomes the opportunity to respond to the Committee's Inquiry into pregnancy, maternity and work in Wales.

Pregnancy and maternity is a protected characteristic under the Equality Act 2010. The legislation prohibits discrimination because of pregnancy and maternity, including treating a woman less favourably because she is breastfeeding. Instances of unlawful discrimination could include a female employee being dismissed or made redundant; refused promotion; denied the right to return to the same job; or having some of her responsibilities taken away because of her pregnancy or maternity leave. It could be sex discrimination if a woman is treated less favourably because she is breastfeeding or if she is harassed because she is pregnant, on maternity leave or because of her return from maternity leave.

In addition, Regulation 10 of the Maternity and Parental Leave Regulations 1999 requires that when a woman faces redundancy during her maternity leave, if there is a suitable alternative job it must be offered to her.

There has been a series of family-friendly legislation over the past decade which has had an impact on workplace management of pregnancy and maternity.

There had been a lack of up-to-date evidence on employers' experiences of, and attitudes towards, managing pregnancy and maternity. As a result of this, in 2016 the Commission published research in partnership with the

Department for Business, Innovation and Skills entitled '[Pregnancy and maternity related discrimination and disadvantage](#).' It explored the nature and prevalence of pregnancy and maternity related discrimination in the workplace. In addition, it examined employers' attitudes, approaches and challenges in managing pregnancy and maternity in the workplace.

### **Commission research findings**

The research results were based on survey interviews with over 3,000 mothers and 3,000 employers. It also included over 100 face to face interviews, in addition to employers and employee focus groups. A tri-nation approach was taken with oversampling to Scotland and Wales so we are able to focus on Wales specific statistics.

Despite 87% of employers in Wales feeling it is in the best interests of organisations to support pregnant women and those on maternity leave, we found that:

- 71% of mothers reported negative or discriminatory experiences
- 46% of mothers reported a negative impact on their career (including opportunity, status and job security)
- 36% of mothers would have liked flexible working arrangements but were fearful to be viewed negatively
- A higher proportion of establishments in Wales (10%) offered no flexible working practices.

Mothers who work in the public sector were less likely to have felt forced to leave their jobs, report financial loss or report a negative experience related to a flexible working request.

In addition, the findings can be broken down to look at the size of the employer. We found:

- Small employers (under 50 staff) were more likely to feel that during recruitment women should declare upfront if they are pregnant.
- Medium-sized employers (50 -249 employees) were more likely to feel it is in the best interests of their organisation to support pregnant women and those on maternity leave.
- Large employers (over 250 staff) were more likely to state that all statutory rights were reasonable and easy to facilitate.

## **Our research report recommendations**

In response to the research, the Commission recommended six areas for action: leadership for change, improving employer practice, improving access to information and advice, improving health and safety management in the workplace, improving access to justice, and monitoring progress.

Specific recommendations for Welsh Government were to:

- work in partnership with the Commission and business leaders to:
  - develop a joint communications campaign aimed at employers, underlining the economic benefits of unlocking and retaining the talent and experience of pregnant women and new mothers, and
  - demonstrate creative approaches to attracting, developing and retaining women in the workforce before, during and after pregnancy.
  
- work in partnership with the Commission to identify effective interventions that enable employers to manage and make best use of the talent and experience of pregnant women and new mothers and to ensure that employers are aware of and comply with their legal obligations.
  
- take action to include relevant questions about pregnancy and maternity discrimination and disadvantage in planned surveys of employers and mothers, report on the outcomes and keep under consideration what further research or action may be needed to address enduring areas of discrimination and disadvantage.

## **Welsh Government Response**

The Commission welcomed the Cabinet Secretary for Communities and Children writing to all Cabinet Secretaries to share our research and recommendations. Within this letter, the Cabinet Secretary asked for detail on the specific actions Cabinet Secretaries had taken, or intended to take, in relation to addressing pregnancy and maternity discrimination highlighted in our research.

Following this, we were informed of the actions identified by all Divisions within Welsh Government. These included:

- The Cabinet Secretary for Education asking officials to write to all Local Authority Education Directors, HR leads and Local Authority Governors' Support Officers to highlight our report and research findings and requiring them to cascade the information to schools in their area.
- The Cabinet Secretary for Finance and Local Government requesting officials to write to all twenty-two local authorities to highlight the support and information available.
- The Cabinet Secretary for Economy and Infrastructure asking officials to circulate our report to their social partners.
- The Cabinet Secretary for Health, Wellbeing and Sport and Minister for Social Services and Public Health sharing our report with Workforce and OD Directors in NHS Wales and to Directors of Social Services in local authorities in Wales.

**The Committee should consider how the actions have been taken forward across Welsh Government Departments since the Cabinet Secretary's letter of April 2017.**

### **Working Forward**

To take forward the recommendations, the Commission launched a national campaign, led by British business, that aims to make workplaces the best they can be for pregnant women and new parents.

We brought together a coalition of businesses, leading the way on pregnancy and maternity rights for employees, who will share their advice, knowledge, and expertise with their peers.

Founding partners are: Barclays Bank, BT Group, Ford Motor Company, John Lewis Partnership, Mitie, Nationwide building Society, Royal Mail, Transport for London.

Supporters are: Chartered Management Institution, CBI, CIPD, FSB, IoD, South West Contact Centre Forum, Welsh Contact Centre Forum.

We are now asking employers that want to improve their practice to pledge to make their workplace the best it can be for pregnant and new mothers, by:

1. Demonstrating leadership from the top down
2. Ensuring confident employees
3. Training and supporting line managers
4. Offering flexible working practices

We are encouraging organisations to pledge support to Working Forward and

take action on these four areas. Our aim is to drive long term attitudinal and behavioral change to improve the experience for both the employer and employee.

We welcome the Welsh Government's signing of the Working Forward Pledge.

**The Committee should consider what further action the Welsh Government can take under each of the pledge areas to improve the experiences for pregnant women and new parents. Also, how can this be shared to promote action from other employers in Wales?**

### **Good practice examples**

Welsh organisations who have signed the Working Forward Pledge include:

- Action for children
- Adult Learning Wales
- AVOW
- Betsi Cadwaladr University Health Board
- Bron Afon Community Housing
- BT
- Cardiff Business School
- Carmarthenshire County Council
- Careers Wales
- Coleg y Cymoedd
- Deloitte
- Dwr Cymru
- Family Housing Association Wales
- Ford
- Gower College Swansea
- Legal & General
- Mid & West Wales Fire & Rescue Service
- NPTC Group of Colleges
- Public Health Wales
- QLS
- South Wales Police / Police & Crime Commissioner
- Torfaen County Borough Council

A key theme of Working Forward is peer- to-peer learning. We are helping organisations to get together to share ideas and experiences about how to make workplaces better for pregnant women and new parents.

**Betsi Cadwaladr University Health Board** are developing a pregnancy and maternity toolkit to support line managers in having regular and open conversations with team members during their pregnancy, maternity leave and return to work.

**South Wales Police** have introduced 'pregnancy champions' to support pregnant staff and for the first few months of returning to work as a new parent. South Wales Police and the Commissioner ensure all of this work is fed into their Internal Delivery Plan to increase the numbers of women at all ranks in their service.

**BT** in collaboration with their women's network have developed a maternity handbook to support line managers. It includes practical advice and top tips. It is complemented by an employee handbook.

Further examples of best practice can be found on our [website](#).

**The Committee should consider how to encourage all employers in Wales, including anchor companies, to take action on pregnancy and maternity discrimination and sign up to the Working Forward pledge.**

### **Power to the bump**

In response to the research, the EHRC launched an online campaign '[Power to the Bump](#)' to empower young expectant and new mothers to know their rights at work and to raise their confidence to assert these rights. This included supporting women to have early conversations with employers and therefore early resolution to avoidable pregnancy and maternity issues.

The five top tips are:

- Tip 1: Talk to your boss
- Tip 2: Go to your antenatal appointments
- Tip 3: Plan your maternity leave
- Tip 4: Talk about risks
- Tip 5: Avoid stress

**The Committee should consider what further steps can be taken to raise awareness of the workplace rights women and mothers have when they are pregnant and return to work.**

## **Welsh Government's equality objectives and economic action plan**

We welcomed the Welsh Government's Public Sector Equality Duty Objective 2016-2020 to identify and reduce the causes of employment, skills and pay inequalities related to gender, age and disability. Actions identified included the production of a Welsh Government wide employability plan to underpin future approaches to delivery aimed at assisting young people and adults to gain, retrain and progress with employment.

'Prosperity for all: economic action plan' sets out a vision for the Welsh economy. The action plan commits to introducing economic contracts which will set the relationship between business and government to stimulate growth, increase productivity and make Wales fairer and more competitive. The contract requires businesses to demonstrate commitment to fair conditions before proposals will be considered in funding. One of these key themes is 'Fair Work'.

The Prosperity for all: economic action plan highlights work to support four foundation sectors – tourism, food, retail and care - in a joined up and consistent way across Government.

Our research found concerning attitudes towards pregnancy and maternity from some of these foundation sectors. For example,

- Hotel and restaurants – employers were more likely than average to think women should declare at recruitment stage if they are pregnant.
- Caring, leisure and other service occupations – twice as many mothers than average felt under pressure to hand in their notice when they announced their pregnancy.

**The Committee should consider how the Public Sector Equality Duty, the Welsh Government's Economic Action Plan and its new Employability Plan can be used as levers to tackle gender inequality in Welsh workplaces.**

**The Committee should recommend that the Welsh Government's Fair Work Board considers our research and findings and that it provides support for businesses in agreeing a clear definition of fair work to ensure that female talent is valued and nurtured.**

**The Committee should consider how the Welsh Government is working with the four foundation sectors to address the attitudes and experiences of women working in these sectors, to ensure opportunities for growth and innovation.**

## Summary of recommendations

- The Committee should consider how the actions have been taken forward across Welsh Government Departments since the Cabinet Secretary's letter of April 2017.
- The Committee should consider what action the Welsh Government can take under each of the pledge areas to improve the experiences for pregnant women and new parents. Also, how can this be shared to promote action from other employers in Wales?
- The Committee should consider what further steps can be taken to raise awareness of the workplace rights women and mothers have when they are pregnant and return to work.
- The Committee should consider how the Public Sector Equality Duty, the Welsh Government's Economic Action Plan and its new Employability Plan can be used as levers to tackle gender inequality in Welsh workplaces.
- The Committee should recommend that the Welsh Government's Fair Work Board considers our research and findings and that it provides support for businesses in agreeing a clear definition of fair work to ensure that female talent is valued and nurtured.
- The Committee should consider how the Welsh Government is working with the four foundation sectors to address the attitudes and experiences of women working in these sectors, to ensure opportunities for growth and innovation.