

Pregnancy and maternity in the legal workplace

Updated 29 July 2022

About the report

Background

This report forms part of our suite of equality, diversity and inclusion resources for the profession. Although this report focuses on pregnancy and maternity leave, it also touches on paternity leave, and shared parental leave.

Pregnancy and maternity are protected characteristics under the Equality Act 2010, because of the potential impact on women's experience in the workplace and their career progression. There is very little information available about the impact of pregnancy and maternity on career progression in the legal sector. This report looks at what is happening, and some of the processes law firms have in place to support women – and their partners - as they have children.

We have included good practice examples in this report. We hope that these can be used to inform and encourage law firms to look at how they approach and develop policies and practices in this area.

Methodology

In compiling this report, we:

- surveyed solicitors from across the profession about their views and experiences of being pregnant and/or taking maternity leave at work during their career (554 respondents)
- surveyed law firms about their pregnancy and maternity practices and policies (29 respondents)
- Conducted an in-depth review of best practice approaches at 17 firms

The information in the report is taken from both surveys, as well as our engagement with law firms and women's groups. Our findings are presented across the following key areas:

- Policies
- Paternity and shared parental leave
- Workplace adjustments

- Keeping in touch arrangements
- Returning to work
- Using data on pregnancy and maternity.

Key findings

Most firms had a policy in place covering pregnancy and maternity leave and support, but many relied on an informal approach. While many firms offer high-quality support at certain points to pregnant women and good maternity benefits, approaches differed considerably from firm to firm and at different stages of a woman's journey.

Approaches to offering paternity and shared parental leave also differed significantly from one employer to the next and more could be done to encourage take up.

Many women had positive experiences of being offered practical support in the workplace, for example being proactively offered workplace adjustments or flexible working options. But some did say it has been difficult to request adjustments or get time off for medical appointments. The experience of staff working from home in the pandemic has given many firms a more positive view of flexible working, which would benefit those who are pregnant and those returning from maternity leave.

While nearly a fifth of those responding to our survey said they had been promoted while on maternity leave, other women found there were challenges in returning to work and ended up leaving.

All the firms that we spoke to said they collected data relating to employees' pregnancy and maternity and some firms were using this to help them understand and develop training or support programmes that will help women progress in the future.

Good practice examples

In compiling this report, we spoke to a number of firms whose approach in particular areas relating to pregnancy and maternity showed good practice. We found that where firms did take time to proactively look at the topic of pregnancy and maternity, they were able to identify simple changes which made meaningful improvements. These included:

- having a policy in place setting out the firm's approach on maternity, paternity, and shared parental leave
- providing training for managers on the firm's approach
- being consistent in the way pregnant women are supported across all levels of seniority and business areas



- encouraging fathers/partners to take paternity or shared parental leave
- having flexible working arrangements in place and encouraging take up by both parents
- proactively talking to pregnant women and those returning from maternity leave about working patterns, flexibility and workload
- using data collected on pregnancy and maternity to evaluate where further support might be required.

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Policies

Most people responding to our survey said the firm they worked for had a formal pregnancy and maternity policy in place. This provided staff with clear guidance on their employer's approach. It helped them understand what flexible working options were available, what their paid maternity leave entitlement was, and their employer's policy regarding time off for pregnancy-related medical appointments.

A clear policy helps those thinking about starting a family, as not everyone wants to tell their employer that they are thinking about having a child, or are indeed pregnant, until they are ready.

Formal/ informal approaches

About a fifth of firms said they did not have a formal policy on pregnancy and maternity. These firms told us that they instead provided tailored, one-to-one support as soon as they were notified of a pregnancy. Several firms had a core policy in place, but a more informal approach to offering bespoke support.

While this can be a good approach, some solicitors were concerned that informal practices could result in variable support, for example where people were able to individually negotiate better maternity benefits than their colleagues.

Some people told us that their firm's policy did not cover partners, so they had to make bespoke arrangements. Several women said they had found being a partner helped them to negotiate a better benefits package, although some also suggested that the pressure of partnership, meant they returned to work sooner after their baby was born than they would have liked.

Maternity pay and time off for pregnancy-related appointments

Solicitors responding to our survey had different experiences of maternity pay rates. This ranged from employers offering the legally-required basic

level of statutory pay [<https://www.gov.uk/maternity-pay-leave/pay>] , through to firms providing as much as nine months fully-paid leave.

In line with changing government guidelines and good practice, most of the firms we spoke to said that they had updated their maternity policy and were now offering between four and six months paid maternity leave.

Some women were unclear about their rights to paid time off work [<https://www.gov.uk/working-when-pregnant-your-rights>] and one woman told us she had to take unpaid leave for ante-natal appointments. Several women told us they were expected to make up time or catch up for missed work following pregnancy-related appointments.

Even when the policies and maternity benefits set out by a firm were excellent, the implementation of these would often depend upon local factors which set the tone and informed the decisions women made. Some women told us they decided not to have a child until they had made partner and had more security. Several firms referenced the pattern of women having children in their first year of partnership.

Good practice

- understand your legal obligations as an employer on pregnancy and maternity and have a formal policy in place which extends to all staff, including partners and equity partners
- build a culture which recognises the importance of supporting staff through pregnancy and maternity
- provide information and/or training for managers and leaders to make sure there is consistency in applying your policy and providing support
- provide guidance and checklists for managers when a member of staff announces they are pregnant.

Paternity and shared parental leave

Several firms were proactive about paternity and shared parental leave, sharing stories of fathers who had taken leave and encouraged others to do the same. Firms told us this helped break down barriers and perceived expectations about who should or should not take leave, and they were seeing an increase in those taking up the opportunity.

The amount of time that fathers and partners were taking off varied from around four weeks to four months. Some told us they looked for direction from others that had previously taken leave to understand what was 'reasonably expected' from their firm.

There was a slight shift in emphasis during Covid-19 and several firms mentioned an increase in requests for information on parental leave.

Case study: Latham & Watkins

Latham offers a flexible suite of family leave options — all with pay provisions beyond statutory minimums — that help lawyers continue to advance in their careers after starting or expanding their families.

Latham offers up to 40 weeks of enhanced pay for maternity, adoption/surrogacy, and shared parental leave periods in addition to the statutory right to a further four weeks of unpaid leave. Additional leave options available include:

- New Parent Leave - Associates and counsel who are not eligible to take maternity or adoption/surrogacy leave can instead take up to 14 weeks' leave at full pay within their child's first year.
- Family Care Leave - Separate from the other leave options, associates are entitled to up to 12 weeks of additional time off to care for a sick child (or other dependent family member), four of which are paid.

Various indicators demonstrate Latham's success in this area, including the fact that, on average, one third of associates who were promoted over the last 10 years had taken parental leave within the three years leading up to their promotion, with several promoted to partner or counsel while on leave.

Latham also seeks to support parents and caregivers as the child grows up, offering programs and resources to its lawyers and staff. Examples include subsidized back-up childcare, as well as preferred enrolment and discounted access to school holiday schemes, nurseries and pre-school centres. Parents can also access a combination of discounted tutoring services and enrichment courses, as well as a free online library of enriching activities and resources to engage several age groups.

Good practice

- have in place a formal policy on paternity and shared parental leave (making sure it is inclusive for example by referencing same-sex parents)
- share stories from those taking paternity or shared parental leave to encourage others and signal the firm's support.

Workplace adjustments

Firms recognised the importance of meeting the needs of pregnant women and some carried out regular assessments to make sure the appropriate support was provided. There were examples of good practice, where women received the adjustments they needed to continue working during pregnancy. Some adjustments were very simple, such as making sure

pregnant women did not have to carry heavy bundles to court. Others involved physical adjustments to desks, chairs and other equipment.

The ability to work flexibly and from home has improved because of the pandemic, with several women reporting the benefits of home working and avoiding long commutes while pregnant.

Overall, a little more than half of the individuals completing our survey told us they did not receive a workplace adjustment when pregnant. Some women said they felt unable to ask or did not want to 'make a fuss'. Others had been offered a risk assessment to consider adjustments but were not satisfied with the outcome. For example, one woman told us her firm would not reduce her target hours even though she was due to go on maternity leave, which meant she missed out on receiving a bonus.

Some firms recognised the challenges in making adjustments to manage pregnancy and maternity and that it was 'easier' to provide support if women worked in departments or work areas which were less demanding. This means there could be inconsistent levels of support provided to women across the same firm, as illustrated by the experience of one woman: 'did have a risk assessment, but no adjustments were formally made to my working patterns. My boss kept an eye on my workload, and I never felt overloaded, and I was allowed time off to attend appointments, but I know that others who were pregnant at similar times did not have such supportive bosses.'

Good practice

- be clear about the range of workplace adjustments you can provide for pregnant staff
- talk to women about the individual support and adjustments they might need and keep this under review
 - monitor your approach to make sure it fair and consistent across the firm
 - provide informal support to your pregnant staff, such as a 'buddy' scheme and to provide support from someone who has already been through the experience
- be inclusive in your approach to flexible working which might help pregnant employees feel more able to ask for suitable arrangements.

Keeping in touch while on maternity leave

Our survey identified that most women opted to stay in touch with their employer while on maternity leave. Most of the firms we spoke to would agree in advance the level, type and volume of engagement they would have while their employee was on maternity leave.

Those opting to remain in touch said this was to make returning to work easier, to keep in touch with colleagues or to stay involved and connected.

Most women wanted to be kept up to date with developments at work. They wanted to hear about changes happening in departments and teams and to be kept up to date with the outcomes on some of their cases. Some wanted to stay in touch because of promotion and progression opportunities, to signal to their employer that they 'were available' and 'interested' in new roles or to help ensure they would retain their existing role or seniority upon return. The more senior a woman, the more they felt they needed to stay in touch and involved.

There is a balance to be had, and for some women their firm overstepped the mark, as illustrated by the experience of one woman: 'After my baby was born, I was contacted regularly about work. I would have appreciated receiving general information on what was happening at work but did not like to be continually on call. I was forced to email my firm after two months of my baby being born, requesting them not to contact me.'

Good practice

- provide support in handing over work before maternity leave is taken
- have an agreement in place for keeping in touch before the start of maternity leave and keep it under review
- be flexible about how you keep in touch, offering arrangements to suit each person.

Returning to work

Maternity leave in many firms was not considered as 'time out of the business' and meant that women who were on track for partnership and/or other leadership positions were able to continue on their pathway without having to make up for 'lost time'.

Around a fifth of respondents had positive experiences and were promoted into a new role while on maternity leave or when they returned. In several firms, we found women were offered partner while on maternity leave.

Just less than half of those who responded to our survey chose to work reduced hours when returning to work after maternity leave. Many of the women who went back full time said that they were concerned that working part time might impact on their careers and opportunities for progression.

All the firms we spoke to had flexible working options which were open to anyone who requested them, with the majority also saying that they felt that the pandemic would increase this in the longer term. One firm said the focus had 'shifted from presenteeism to output'.

The ability to work from home was seen as a huge benefit for parents, as work could continue without the need to commute, travel to client meetings or rush home for school/nursery pick-up times. The change in approach is illustrated by this quote: 'At our firm, some of our senior partners were suspicious about the effectiveness of working from home. Now that we have all been doing this for a while, and having been forced to experience this themselves, they are beginning to acknowledge the benefits that the flexibility of working from home can bring.'

Many we spoke to found flexible working helped their return, whether that was going part time, working from home, or other flexible arrangements. While this worked for some, others ended up leaving, with most saying their role was not flexible enough, the hours they were working were no longer suitable, or they wanted a job with less pressure and responsibility.

About a fifth felt they were not welcome back to work. One woman said: 'My employers did not treat me well while pregnant and other associates on returning from maternity leave had not had good experiences which did not make me want to return after maternity leave.' Another said: 'I was pressured to become self-employed on my return to work. This would mean I would not reach my current earning level until another five years. I was told by my female manager and partner that because I had had a baby before I reached partner, that 'I could not expect to be made partner'. Being pregnant was unprofitable. While on maternity leave, I resigned.'

Case Study: White & Case

White & Case offers wide-ranging parental support, covering parental leave, benefits and flexible work policies to all new and expectant parents, regardless of gender. The support is also provided to those who become parents by way of surrogacy or adoption.

All new parents receive access to:

- Support and coaching materials
- A dedicated intranet page where information on key firm activities is shared. This allows those on parental leave to easily keep abreast of events and participate in activities should they wish to
- Help in creating individual plans which support their transition to being working parents
- A partner assigned to support associates and other lawyers with work allocation.

The firm also offers parental leave coaching to the managers of expectant and returning parents.

The firm works in collaboration with external specialists to provide a range of resources including exercises, videos, useful tips and information specifically designed to help new parents and managers of new parents.

White & Case's diversity and women's initiative committees, comprised of partners and senior business services leaders from across the firm, work to assist new parents transitioning back to work through work allocation strategies, discussions with regional leaders on career progression and access to coaching and other development programmes.

Good practice

- have an inclusive approach to flexible working
- be open and transparent about the expected workload on return and the work that will be available
- arranged a structured return and provide one-to-one support and training as required
- have clear career progression pathways for staff returning to work after taking extended periods of leave
- develop a culture which provides support for staff with families, going beyond the initial return to work.

Use of data on pregnancy and maternity

All of the firms we spoke to collected data on pregnancy and maternity for HR purposes. Firms knew of the number of women taking maternity leave and the numbers of women returning to work.

This data can play an essential role when looking to address concerns that exist, for example about attrition and progression in the workplace. Collecting, monitoring and reviewing data also helps to identify when and at what point initiatives are succeeding. Having the evidence shows where efforts can be focused for better engagement and outcomes.

For example, if a firm identified from its data that women returning from maternity leave were taking longer to progress into senior roles, they could put in place targeted learning and training opportunities or review their flexible working approach. Or as one firm decided to do, take a look at their billable hours and casework to make sure women were not held back simply because they were working flexibly or part time.

As with all data, it must be collected and stored securely in compliance with the data protection legislation.

Case study: Shoosmiths

Gender equality at all levels

Utilising diversity data is vital to making progress on gender equality. Shoosmiths analysis of its data has enabled it to establish where it has made progress and where it needs to do more.

The firm analyses its data at multiple levels, which gives it a clearer understanding of where there might be an imbalance or factors affecting female representation in specific parts of the business. For example, by looking at the gender ratio for each grade category in their legal talent pipeline, it has been able to focus support and identify 'tipping points' in the business where female representation starts to drop off.

The firm has also set up a high-performing women programme, facilitated by an external coach, currently in its third cohort, which aims to further progression of women in the partnership.

Maternity Leave

Women returning to Shoosmiths after maternity leave benefit from the firm's support. Shoosmiths arranges a return-to-work induction programme for its maternity returners to ensure they are fully briefed in any developments during the period of their maternity leave. That includes any training they might have missed or inclusion on workshops/career programmes.

The firm also arranges a call during leave periods between the maternity returner and their line manager so communication can be opened, and career aspirations discussed. It also offers maternity returners the opportunity to link in with a mentor to help support them.

Good practice

- if women are under-represented in senior roles or are leaving the firm in greater numbers, consider if the reason for this is related to how you approach pregnancy and maternity
- identify trends and monitor where actions are required.