

Safety Management Standard

New and Expectant Mothers



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Document Control

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1. Introduction

University Hospitals of Derby and Burton NHS Foundation Trust recognises its duties under the *Health and Safety at Work Act (HASAWA) 1974*, *The Management of Health and Safety Regulations 1999* and *The Equality Act 2010* to provide suitable arrangements to protect female employees of childbearing age and expectant or new mothers in the workplace and ensure adequate precautions are in place to protect them and their baby from harm.

2. Purpose and Aims

This Safety Management Standard (SMS) supplements the Health and Safety Policy and is a guide for managers in protecting females of childbearing age and expectant or new mothers when in the workplace

3. Definitions

A new or expectant mother is a woman who is pregnant, has given birth within the last six months or is breastfeeding.

4. The Law

Regulation 3 of the Management of Health and Safety at Work Regulations 1999 (MHSW) places a legal duty on all employers to assess the health and safety risks that their employees are exposed to whilst at work. Once the risks have been assessed, the employer is then required to put in place the appropriate health and safety measures to control those identified risks.

Regulation 16 of MHSW also requires that the risk assessment should include any specific risks to females of childbearing age who could become pregnant, and any risks to new and expectant mothers. These risks can be from any process, working conditions, or physical, biological or chemical agents.

Regulation 18 of MHSW states that when an employee provides written notification to her employer stating that she is pregnant, or that she has given birth within the past six months or that she is breastfeeding, the employer should immediately take into account any risks identified in their workplace risk assessment. If that risk assessment has identified any risks to the health and safety of a new or expectant mother, or that of her baby, and these risks cannot be avoided by taking any necessary preventive and protective measures under other relevant health and safety legislation, then employers must take the following actions to remove, reduce or control the risk.

- Action 1 - Temporarily adjust her working conditions and/or hours of work; or if that is not possible
- Action 2 - Offer her suitable alternative work (at the same rate of pay) if available, or if that is not feasible;
- Action 3 - Suspend her from work on paid leave for as long as necessary, to protect her health and safety, and that of her child.

MHSW also states that where a new or expectant mother works nights and she provides a medical certificate from her GP or Midwife which says that working night shifts will affect her health, then her employer must suspend her from work, on full pay, for as long as necessary. However, the Employment Rights Act 1996 provides that, where appropriate, suitable alternative work should be offered, on the same terms and conditions, before any suspension from work is considered. If that is not possible, the employer must suspend her from work on paid leave for as long as is necessary to protect her health and safety and/or that of her child.

The Workplace(Health,Safety and Welfare) Regulations 1992 requires employers to provide suitable rest facilities for workers who are pregnant or breastfeeding. The facilities should be suitably located (e.g. near to toilets) and, where necessary, should provide appropriate facilities for the new or expectant mother to lie down.

Equality Act 2010 provides protection to pregnant women and those on maternity leave against discrimination. A breach of MHSW may in addition be unlawful discrimination under the Equality Act, depending on the circumstances. There is no length of service qualification and the Act gives protective rights to a broad range of employees including contract(or agency) workers and apprentices. A breach of the Equality Act could give rise to civil liability.

5. The Responsibility of the Employer

Employers must carry out a general risk assessment for their employees to assess all health and safety risks they are exposed to while at work. As part of that process, employers should consider female employees of childbearing age, and new or expectant mothers and their new baby assessing the risks that may arise from any process, working condition or physical, biological or chemical agents. For example, dexterity, agility, co-ordination, speed of movement and reach may be impaired because of increased size as the pregnancy progresses. If the risks cannot be removed the employer must:

- Action 1 - Temporarily adjust her working conditions and/or hours of work; or if that is not possible
- Action 2 - Offer her suitable alternative work (at the same rate of pay) if available, or if that is not feasible;

Action 3 - Suspend her from work on paid leave for as long as necessary, to protect her health and safety, and that of her child.

While it is a legal obligation for employers to regularly review general workplace risks, there is no legal requirement to conduct a specific, separate risk assessment for an employee, once notified in writing that she is a new or expectant mother. However, employers have a legal duty to check and, if necessary, update the general risk assessment for any employee if they suspect it is no longer valid, or there have been significant changes to anything it relates to. As part of that process, the employer should regularly monitor and review the assessment in the workplace, taking into account possible risks that may occur at different stages of pregnancy.

UHDB require managers to have a local generic risk assessment in place for females of child bearing age and expectant or new mothers. Once notified by an employee of their pregnancy a personal risk assessment should be carried out with the employee and this should be kept in the employees personal file and reviewed as and when any changes arise e.g. any advice given from the employees doctor or midwife for pregnancy related medical conditions.

6. The Responsibility of the Employee

Whilst an employee does not have to inform their employer that they are pregnant, have given birth in the last six months or are breastfeeding, it is important to notify them in writing as early as possible. Until the employer receives written notification from the employee, they are not required to take any further action, such as altering working conditions or hours of work. However, a reasonable period of time must be allowed for all necessary medical examinations and tests to be completed.

The employee may also be asked to provide a certificate from their GP or registered midwife showing that they are pregnant. The employer must take into account any medical advice about the employees' health, and adjust working conditions accordingly. The necessary timing and frequency of rest breaks should also be agreed with the employer.

There are no legal restrictions on breastfeeding at work or any time limit for doing so. This is something for the employee to decide but it should not prevent them from returning to work. The employee should provide the employer with written notification that they are breastfeeding. It is advisable to do this before a return to work, so that the employer can ensure a healthy, safe and suitable environment.

Employees should not be expected to use toilets for expressing milk. The employer may provide a private, healthy and safe environment to express and store milk, although there is no legal requirement for them to do so.

More information of responsibilities and frequently asked questions can be found on the Health and Safety Executive(HSE) Website and by accessing leaflet (INDG37) New and expectant mothers at work-A brief guide to your health and safety. [HSE: Information about health and safety at work](#)

7. What are the risks and hazards to be assessed?

Whilst it is difficult to create a generic risk assessment for new and expectant mothers, given that every individual job role is different, there are a number of key areas a manager can consider and assess when undertaking a risk assessment. Below are some areas for consideration in undertaking a specific assessment of needs of the employee, use the link for upto date risk assessment template on NET-I

[Download risk assessment template \[doc\] 127KB \(uhdb.nhs.uk\)](#) and consider all of the following when carrying out the assessment. :

Personal Safety work related violence and aggression	Slips , Trips & Falls
Works at Height	Lifting & Carrying
Access and egress	Exposure to infectious diseases
Use of PPE	Use of Chemicals/ radiation/ lead
Travel on behalf of work	Welfare and rest facilities
Stress	Fatigue
Lone Working	Temperature
Display Screen Equipment	Noise

8. COVID 19

Due to the ever changing and evolving response to the COVID-19 Pandemic guidance is checked and updated to regularly to reflect any changes in government advice. It is important to verify the current and most upto date guidance detailed by Occupational health via NET-I , and adhere to the latest guidance published .

9. Monitoring & Review

This Safety Management Standard will be regularly monitored and reviewed by the Health and Safety Team to:

- Ensure it continues to comply with legislation
- Ensure that it is reasonably practicable to implement to all those concerned within the Trust.

10. Further information

The Health and Safety Executive (HSE) has a range of information on arrangements for New and Expectant mothers <https://www.hse.gov.uk/mothers/>

See our health and Safety pages on Net-I at <https://neti.uhdb.nhs.uk/hsw-health-and-safety>

Or contact the Health and Safety Team using the contact details below.

We hope you find this SMS useful; if you require further information please contact one of the health and safety team:



General enquiries during normal hours 07385 411684

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