

<b>Title:</b> Pregnancy and maternity discrimination: extending redundancy protection for women and new parents <b>IA No:</b> BEIS054(F)-22-LM <b>RPC Reference No:</b> RPC-4334(1)-BEIS <b>Lead department or agency:</b> Department for Business, Energy and Industrial Strategy <b>Other departments or agencies:</b> N/A	<b>Impact Assessment (IA)</b>
	<b>Date:</b> Aug 2022
	<b>Stage:</b> Final
	<b>Source of intervention:</b> Domestic
	<b>Type of measure:</b> Primary legislation
	<b>Contact for enquiries:</b> Bryan.Halka@beis.gov.uk
<b>Summary: Intervention and Options</b>	<b>RPC Opinion: N/A</b>

Cost of Preferred (or more likely) Option (in 2019 prices)			
Total Net Present Social Value	Business Net Present Value	Net cost to business per year	Business Impact Target Status Qualifying provision
£-22.6m*	£-30.6m*	£3.6m*	£17.8m*

**What is the problem under consideration? Why is government intervention necessary?**

BIS/EHRC research found that 77% of mothers had experienced at least one discriminatory/possibly discriminatory experience in work, and 11% of mothers felt forced to leave their job. A Women and Equalities Select Committee (WESC) inquiry concluded that there were unacceptable levels of discrimination in the workplace, including significant issues when mothers returned to work. One form this discrimination can take is employers making women redundant when they are pregnant, on maternity leave or when they return to work.

Currently women on maternity leave have some additional limited protection from redundancy above other affected employees. Their employer is required to offer them an alternative suitable role, not just invite them to apply (as for other affected employees).

However, the existing legislation is complex (with protections afforded by Equality Act 2010, the Employment Rights Act 1996 and MAPLE 1999). And current provision does not offer any additional protection during pregnancy itself or the return to work period. Government intervention is required to (i) simplify arrangements so they are better understood by employers and employees, and (ii) extend the protected period so pregnant women and those who have recently returned to work have safeguards against redundancy (as one possible form of discrimination) during these vulnerable periods.

\* Primary legislation includes enabling powers, which will be implemented via affirmative secondary legislation. The analysis will be updated before the secondary regs are laid.

**What are the policy objectives and the intended effects?**

The key objective of this policy is to improve the redundancy protection afforded to pregnant women and new parents by extending existing protections available while on certain forms of family leave into pregnancy and for a period of return to work. By doing so, we expect that:

- Pregnant women will, for the first time, benefit from the additional protection of being at the “front of the queue” when it comes to filling any remaining jobs in any redundancy situation – because their employer will be required to offer them a suitable vacancy (not just invite them to apply for one).
- New parents returning to work after an agreed period of leave (to be defined) will receive the same additional protection.
- This will challenge the perception that pregnant women and new parents should be first in line in a redundancy situation. In so doing, discrimination against pregnant women and new parents returning to work will become less pervasive in the workplace.
- There will be a lower incidence of redundancies of pregnant women and new parents upon their return to work as employers are required to offer them (not just invite them to apply for) any suitable remaining roles.
- Individuals will better understand their rights and find it easier to exercise them if any unlawful discrimination occurs as the redundancy protection will apply consistently from pregnancy through to a return to work period.
- Businesses are aware of their obligations, and of their employees’ rights around unlawful discrimination. Greater consistency of redundancy protection for parents from pregnancy through to a return to work will make it easier for employers to understand and comply with their obligations.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

Option 1: Do Nothing

Option 2 : A non-legislative option that provides more effective advice and guidance to encourage employers to recognise and address discrimination against pregnant women and new parents in the workplace

Option 3 (preferred): Extend redundancy protections afforded under MAPLE 199 regulations beyond the maternity/adoption/shared parental leave period to pregnant women and those returning from maternity/adoption/shared parental leave for a blanket period of 18 months from child’s birth.

**Will the policy be reviewed?** It will be reviewed. **If applicable, set review date:** Date to be confirmed when the secondary legislation is laid.

Does implementation go beyond minimum EU requirements?	No			
Is this measure likely to impact on international trade and investment?	No			
Are any of these organisations in scope?	<b>Micro</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes	<b>Large</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)	<b>Traded:</b> N/A		<b>Non-traded:</b> N/A	

***I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.***

Signed by Jane Hunt MP, Parliamentary Under-Secretary of State at the Department for Business, Energy and Industrial Strategy:



Date: 31/08/2022

# Summary: Analysis & Evidence

# Policy Option 3

## Description:

### FULL ECONOMIC ASSESSMENT

Price Base 2021	PV Base 2024	Time Period 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: £-22.6m*

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low			
High			
Best Estimate	£25.5m*	£15.1m*	£155.6m*

#### Description and scale of key monetised costs by 'main affected groups'

One-off costs (best estimates): Business - Familiarisation costs of £30.4m

Recurring annual costs (best estimates): Business - Contribution to Statutory Maternity Pay (SMP) of £0.9m.

Exchequer – Additional Statutory Maternity Pay of £17.1m

#### Other key non-monetised costs by 'main affected groups'

Labour costs of retaining workers that businesses would otherwise make redundant are based on a number of theoretical assumptions that are not robust enough to be included in the main economic assessment – see Annex B.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			
High			
Best Estimate	£0.0m	£15.4m*	£133.0m*

#### Description and scale of key monetised benefits by 'main affected groups'

Recurring annual benefits (best estimates): Businesses - £0.2m savings arising from Employment Tribunal (ET) and Early Conciliation (EC) claims.

Individuals: £3.0m (2.9m in maternity pay (Statutory Maternity Pay minus Maternity Allowance), £0.1m in savings from avoiding ET and EC costs)

Exchequer: £15.2m (£15.1m savings arising from Maternity Allowance, £0.1m savings arising from ET and EC claims)

#### Other key non-monetised benefits by 'main affected groups'

Individuals will benefit from retained employment and wages. Business will benefit from output of retained worker (Annex B).

Pregnant women and new parents will benefit from improved work environments, reduced discrimination in workplaces, and improved job stability and career progression. These factors may impact positively on the health and well-being of affected individuals.

#### Key assumptions/sensitivities/risks

Discount rate (%)

3.5%

Estimated costs and benefits are sensitive to modelling of employers' and employees behavioural responses to the policy, these are discussed in more detail in Annex C. The main economic assessment relies on fewer theoretical assumptions, known cost/benefits such as the amount of Statutory Maternity Pay/Maternity Allowance and standard approaches to estimating employer familiarisation.

#### BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: 3.7*	Benefits: 0.2*	Net: 3.6*	
			17.8*

\* Primary legislation includes enabling powers, which will be implemented via affirmative secondary legislation. The analysis will be updated before the secondary regulations are laid.

## Evidence Base (for summary sheets)

### Problem under consideration

1. In 2016, BIS and EHRC commissioned research to investigate the prevalence and nature of maternity and pregnancy discrimination in the workplace. The research found that 77% mothers surveyed had experienced at least one discriminatory or possibly discriminatory experience at work, and 69% had experienced two or more such experiences. 11% of mothers surveyed felt forced to leave their job, either by being dismissed, made compulsorily redundant or because they were treated so poorly that they felt they had to leave. If we scale up this research to the general population this could mean up to 54,000 women a year. Discrimination against pregnant women and mothers was found to have increased since 2005, when similar research was conducted by the Equal Opportunities Commission.
2. The survey explored the views and experiences of 3,254 mothers on a range of issues relating to managing pregnancy, maternity leave and mothers returning to work<sup>1</sup>.
3. The research highlighted inconsistencies between employers' awareness of legal rights, their responsibilities and women's experiences in the workplace. 70% of employers reported high levels of awareness of female employees' rights, but when questioned further possible bias against pregnant women emerged. 70% of employers believed that women should declare their pregnancy during recruitment stage, and 25% of employers thought it was acceptable to ask a woman about their plans to have children during the recruitment process. Furthermore, half of mothers surveyed felt their pregnancy/maternity had negatively impacted their career. These findings raise the question of whether employers' awareness of rights is sufficient to ensure non-discriminatory behaviour. It is unlawful for an employer to discriminate against a woman because of her pregnancy under the Equality Act 2010. If an employer does ask in an interview whether someone is pregnant or plans to have children, this is considered strong evidence that the employer is in breach of the laws against sex discrimination found in the Equality Act 2010.
4. Employment law relating to pregnancy and maternity and redundancy is covered by the Equality Act 2010 and the Employment Rights Act 1996. The Equality Act sets out a 'protected period' during which women who are pregnant or have recently given birth are explicitly protected from discrimination. During the 'protected period' a woman is protected against discrimination that arises due to her pregnancy; any illness related to her pregnancy, or absence because of that illness; being on compulsory maternity leave; or seeking to take, taking or having taken ordinary or additional maternity leave.
5. Regulation 10 of the Maternity and Parental Leave etc. Regulations 1999 (MAPLE) takes this protection a stage further for the period of maternity leave. It states that if it is not practicable by reason of redundancy for an employer to continue to employ a woman on maternity leave, the employee is entitled to be offered (not just invited to apply for) a suitable available vacancy with her employer (or an associated employer). This gives the woman priority over other employees who are at risk of redundancy, even if the other employees are better qualified for the job. This protection applies only whilst the woman is on maternity leave.

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<sup>1</sup> 1. The employer survey was based on a sample of workplaces (with at least 5 employees) across Great Britain and was drawn from the Interdepartmental Business Register (IDBR), with results based on 3,032 telephone interviews. Only workplaces with at least 5 staff members were sampled. Using a random sample of birth registration records held by the Office for National Statistics (ONS) and National Records of Scotland (NRS), mothers with children aged between 9 and 24 months were selected for telephone interviews.

6. In response to the findings of the BIS/EHRC research, the Women and Equalities Select Committee (WESC) launched an inquiry into pregnancy and maternity discrimination. The inquiry built on the existing evidence base, drawing on evidence presented by a large range of stakeholders including Maternity Action, Citizens Advice, and Unite<sup>2</sup>. Maternity Action reported there had been a “significant increase in rates of pregnancy discrimination in the past decade” based on increases seen between the 2005 survey and 2014/15 and their experience of offering advice to pregnant women and mothers. Maternity Action found in 2005, 30,000 women lost their jobs as a result of pregnancy discrimination. Their findings in 2015 showed that 54,000 women lost their jobs (either dismissed; made compulsorily redundant, where others in their workplace were not; or treated so poorly they felt they had to leave their job) as a result of pregnancy discrimination. Citizens Advice provided figures<sup>3</sup> that showed the number of people it helped with specific maternity rights and discrimination issues increased between 2014/15 and 2016/17 and that there was a wider unmet need for advice and support to women experiencing pregnancy and maternity discrimination. WESC concluded that there were unacceptable levels of discrimination and significant issues around a new mother’s return to work. Employers frequently put mothers at risk of redundancy on their first day back from maternity leave, according to Your Employment Settlement Service Law<sup>4</sup>. WESC recommend extending redundancy protection to apply throughout pregnancy, maternity leave and for six months afterwards.
7. The Taylor Review of modern employment practices recommended consolidating the legislation and guidance for protections against pregnancy and maternity discrimination. The legislation in this area is complex and thus businesses may struggle to understand their obligations. As a result, employees may find it difficult to exercise their rights.
8. Given the recommendations to consolidate legislation, the Government has considered how best to achieve a consistent approach in extending redundancy protection. The Government published a consultation on extending redundancy protection pregnant women and new parents, which questioned whether similar protections should be given to parents returning from adoption and shared parental leave, as these groups take extended periods of leave for similar purposes. These parents may also experience discrimination and redundancy based on their absence from work for childcare and should not remain disadvantaged.
9. WESC also highlighted the need for greater enforcement of measures to prevent maternity and pregnancy discrimination during redundancy, raising the concern that currently the burden of enforcement predominantly rests with women. Those making a discrimination claim at Tribunal must demonstrate unfavourable treatment, and the burden to provide evidence is on the individual. Under MAPLE regulations, the requirement is on the employer to demonstrate that no suitable alternative job is available. Providing greater consistency of protection during maternity/adoption/shared parental leave and into a period of return to work, would help reduce the burden on parents seeking to make a claim at tribunal.

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<sup>2</sup> WESC (2016), Report: Pregnancy and Maternity Discrimination at <https://publications.parliament.uk/pa/cm201617/cmselect/cmwomeq/90/90.pdf>

<sup>3</sup> In total, Citizens Advice helped 6,358 people in 2014/15 with, this number rising to 6,725 in 2015/16 on specific maternity rights and pregnancy discrimination issues. For pregnancy discrimination figures, the number of people it helped rose from 1,551 in 2014/15 to 1,923 in 2015/16. Similarly, the number of people it helped with maternity rights (maternity leave, contractual maternity pay, other maternity rights and redundancy during maternity leave) rose from 5,256 in 2014/15 to 5,324 in 2016/17.

<sup>4</sup> WESC (2016), Report: Pregnancy and Maternity Discrimination.

10. In addition to the legislative proposal, the Government has also pursued non-statutory approaches to tackle maternity discrimination. Government has worked with bodies such as Acas and EHRC to ensure that pregnant employees and new mothers have the information they need to challenge unacceptable or bad practice. We have updated and consolidated guidance on the GOV.UK website and have taken steps to signpost that advice and guidance at appropriate stages using other interactions with pregnant women and new mothers – such as through DWP’s MAT B1 form and the NHS’s Start for Life programme.
11. The 2019 consultation achieved over 640 responses, with almost 540 seeking an extension to the time limits to tribunal cases which are treated separately to the main consultation questions. Of the 105 responses directly related to the consultation document, 78% were from individuals, 11% from employers, 2% from Trade Unions and 3% from industry/employer groups. The responses also achieved variation in terms of sector represented, with 47% in the private sector, 27% in the public sector and 11% in the charity sector (the remainder did not specify). In addition, BEIS ran a number of roundtable and workshop discussions with both employers and individuals.
12. The responses suggested that the quality of information available was fairly good and the information provided through Acas guidance and the EHRC was easy to understand and accessible. The information provided by independent organisations was also helpful.
13. However, a non-statutory approach cannot address the specific issue with unevenness in redundancy protections afforded to pregnant women and new parents. The consultation also indicated that 26% of respondents felt the steps were “not very or not at all effective” in informing pregnant women and new mothers of their employment rights (further 31% didn’t know) and there was a similar picture reported to the question on whether the steps had been effective in informing employers of their obligations.
14. The Government responded to this consultation in July 2019. In the response, government highlighted that over three quarters of respondents to the consultation agreed that the redundancy protection currently provided when someone is on maternity leave should be extended into a period of return to work. Responses were also generally positive on the benefits for both individuals and employers. Nearly three quarters of respondents felt that six months was appropriate. When answering the question about when redundancy protection should start, over two thirds of respondents agreed that this should be from the point when an employee informs their employer. Consultation responses were clearly in favour (over 80%) of providing similar redundancy protections to other groups returning to work having taken extended periods of leave for similar purposes to maternity leave. Adoption leave and Shared Parental Leave were considered most similar to maternity leave.
15. Other length of leave options have been considered and were discussed in more detail in the consultation paper<sup>5</sup>. Limited information exists on how effective similar proposals have been in other countries, making it difficult to argue there is a specific amount of time for which the protection should last. However, the consultation found that three months would simply delay the point at which an employer sought to make a new mother redundant and twelve months was thought too long a period for these purposes and would represent an unjustified burden on businesses seeking to deploy their staff most effectively.

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<sup>5</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/773179/extending-redundancy-protection-for-pregnant-women.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/773179/extending-redundancy-protection-for-pregnant-women.pdf)

## Primary and Secondary legislation

16. Parents on particular forms of family leave (maternity, shared parental and adoption) currently receive additional redundancy protections while taking that leave through the MAPLE Regulations 1999. The new primary legislation will enable the Secretary of State for Business, Energy and Industrial Strategy to make regulations to extend that additional redundancy protection during pregnancy and for a return to work period.
17. The primary legislation will simply take the power to make the necessary changes and it introduces no impact to Business or the Exchequer. Secondary legislation through affirmative SI will make the meaningful changes to extend the period of redundancy protection. We have outlined these impacts in this IA and will update where necessary in a secondary Impact Assessment. The changes will:
  - Ensure the redundancy protection period applies from the point the employee informs the employer that she is pregnant, whether orally or in writing;
  - Extend the redundancy protection period for an 18-month period (from birth) for parents that take a period of Maternity/Adoption/Shared Parental Leave<sup>6</sup>.

## Rationale for intervention

18. Unlawful pregnancy and maternity discrimination remains prevalent in the workplace, as evidenced by the BIS/EHRC research and WESC inquiry. Under the current legislation (MAPLE), new mothers on maternity leave are protected from redundancy and are entitled to be offered (not just invited to apply for) a suitable available vacancy with her employer (or an associated employer) if at risk of redundancy. This offers protection to address one form of discrimination, but it currently applies only whilst the woman is on maternity leave.
19. Pregnant mothers do not have this additional redundancy protection – despite pregnancy being a protected period under the Equality Act. And new parents returning to work do not have this additional redundancy protection – despite it being a vulnerable period. Research indicates that these individuals (pregnant women and returning parents) do not have adequate protections and are subject to discrimination, which can take the form of being made redundant.
20. Government does not believe employers will resolve this issue of their own accord, because of a) unlawful behaviour exists, and b) evidence that 70% of employers report being aware of female employees' rights, but then expressed discriminatory views under further questioning, which suggests that awareness raising is not sufficient to deter discriminatory behaviour. Employers are currently not incentivised to provide sufficient employment protection for pregnant and new parents and are likely to prioritise their costs and bottom line.
21. There is an unacceptable number of pregnant women and mothers each year that are estimated to be affected by redundancy discrimination. The 2016 BIS and EHRC research estimated that 1% of all mothers report being made redundant whilst pregnant and 2% on return from maternity leave. We estimate that this means each year there are roughly 2,500 pregnant employees, 5,000 new mothers, and a small number of new adoptive parents and partners on return from Shared Parental Leave who are made

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<sup>6</sup> The Government will continue to engage with stakeholders on the purpose of, need for and length of a qualifying period of relevant leave to access the additional redundancy protection to ensure that the ensuing regulations provide appropriate protection.

redundant (with no alternative or lower position offered)<sup>7</sup>. While it is difficult to directly compare redundancy rates (and discrimination) with other groups in the labour market (as data is limited regarding redundancy outcomes) there are strong equity reasons for protecting this group. For example, we know that pregnant women and new parents face challenges in balancing work with pregnancy and family life more generally. Parents may need to reduce hours of work (or other forms of flexible working), take on less responsibility or take more leave to deal with appointments and childcare etc. Crucially, there is clear evidence that the employment participation and pay gap for women begin to open up around the age of childbearing and never close (sometimes referred to as the 'motherhood penalty') – this relationship has been shown to be causal<sup>8</sup>.

22. More recently, the 2019 Parental Rights Survey (as yet unpublished) estimates that 70 per cent of mothers who took Maternity or Adoption Leave report that they did not experience any form of unfair treatment during pregnancy, parental leave or on their return to work. Direct comparisons with earlier surveys (2006 or 2009) are not possible due to methodological changes, but the latest survey findings suggest the experience of unfair treatment has not decreased. Of employed mothers who took Maternity/Adoption Leave, 1% reported being dismissed, and the same proportion reported being selected for redundancy because of the pregnancy.
23. Employment Tribunal statistics<sup>9</sup> estimate there were 5,172 and 1,435 Employment Tribunal complaints received under the 'Sex Discrimination' and 'Suffer a detriment and/or dismissal on grounds of pregnancy, child birth or maternity' jurisdictions, respectively, in 2020/21. This compares to 6,260 and 1,636 in 2019/20 (pre-covid period) and 5,522 and 1,357 in 2017/18 (pre non-regulatory action period) which suggests regulatory change is required. Note that this jurisdiction captures complainants who reported they suffered a detriment on grounds of pregnancy, child birth or maternity which did not necessarily involve a dismissal.
24. Pregnant women and new parents who are estimated to be affected by redundancy discrimination in the workplace are spread across businesses of all sizes. In the consultation stage Impact Assessment, we estimated that 42.5% of employees work in SMEs<sup>10</sup> using Business Population Estimates, in the absence of data sources specific to those in scope of the policy. The percentage of employees in small and micro businesses (businesses with up to 50 employees) was estimated to be 28.5%, 14.1% of employees were estimated to work in medium businesses (with 50-249 employees), and 57.5% of employees were estimated to work in large businesses. We now have data from the Parental Rights Survey, which is specific to parents, which estimates that 39% of mothers work in small businesses (fewer than 50 staff), 18% work in medium size businesses (50-249 employees) and 37% work in large employers (250+ employees). Given this data indicates a significant proportion of target population work in both small and medium businesses, the policy response must apply to firms of all sizes or it will be inadequate in addressing unlawful behaviour and discrimination across the labour market.
25. The Government has attempted non-statutory approaches to partly address this problem. The Government has tried to increase awareness of individual rights and business obligations through guidance and signposting of information. Although these approaches

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<sup>7</sup> See paragraph 57 for further details on how this has been calculated.

<sup>8</sup> Blundell, R., Dias, M. C., Meghir, C. and Jonathan M. S., (2016). Female labour supply, human capital and welfare reform, *Econometrica*, [online], volume 84 (5) p. 1705-1753. Available at: [www.ucl.ac.uk/~uctp39a/BDMS\\_Ecta\\_Sept\\_2016.pdf](http://www.ucl.ac.uk/~uctp39a/BDMS_Ecta_Sept_2016.pdf) and Paull, G., (2006). The Impact of Children on Women's Paid Work, *Fiscal Studies* [online], volume 27(4), p. 473-512. Available at: <https://onlinelibrary.wiley.com/doi/abs/10.1111/j.1475-5890.2006.00043.x>

<sup>9</sup> <https://www.gov.uk/government/statistics/tribunal-statistics-quarterly-january-to-march-2022>

<sup>10</sup> Percentages calculated using Tables 1 and 2 of [Business Population Estimates, 2019](#).



have seen positive results, the Government has decided that further legislation is required to address pregnancy and maternity discrimination based on the body of evidence and WESC recommendations.

26. By strengthening the legislative framework around redundancies during pregnancy and for returning parents, these groups will face less discrimination, both directly and indirectly e.g. given existing protections around pregnancy, it is currently very rare for women to be dismissed solely because they are pregnant, as this is clearly unlawful. Employers may however make pregnant women redundant instead. This legislative change will reduce the number of these cases. As the BIS/EHRC research<sup>11</sup> indicates around 6% of mothers were made redundant at some point during pregnancy, maternity leave or on return to work. Of those, 71% were either not offered an alternative position or a position was offered at a lower level. This suggests that targeting redundancy behaviour will directly, albeit not fully, address reported experiences of discrimination in the workplace.
27. Tackling discrimination against pregnant women and returning mothers in the workplace addresses wider Government objectives of improving female career progression, and reducing the gender pay gap. Policy proposals to help women remain in the labour market may address large gender wage differentials in senior positions. IFS research<sup>12</sup> found that the gender pay gap is relatively small on entry into the labour market, but widens when the first child arrives and by the time this child is 20 there is a 30% difference in average hourly wages between men and women. The IFS find that a key factor behind the differential is that mothers accumulate less work experience (and work experience is associated with wage growth) than fathers due to less time spent in work. Policies to help keep mothers in employment following the birth of their child may help to address divergences in the accumulation of work experience.

## Policy Objective

28. The key objective of this policy is to improve the redundancy protection afforded to pregnant women and new parents by extending existing protections available while on certain forms of family leave into pregnancy and for a period of return to work. By doing so, we expect that:
- Pregnant women will, for the first time, benefit from the additional protection of being at the front of the queue when it comes to filling any remaining jobs in any redundancy situation.
  - New parents returning to work after an extended period of leave will receive the same additional protection. The Government will continue to engage with stakeholders on the purpose of, need for and length of a qualifying period of relevant leave to access the additional redundancy protection to ensure that the ensuing regulations provide appropriate protection.
  - This will challenge the perception that pregnant women and new parents should be first in line in a redundancy situation. In so doing, discrimination against pregnant women and new parents returning to work will become less pervasive in the workplace.

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<sup>11</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/509501/BIS-16-146-pregnancy-and-maternity-related-discrimination-and-disadvantage-experiences-of-mothers.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/509501/BIS-16-146-pregnancy-and-maternity-related-discrimination-and-disadvantage-experiences-of-mothers.pdf)

<sup>12</sup> Costa Dias, M., Joyce, R., Parodi, F. (2018), Wage progression and the gender wage gap: the causal impact of hours of work, Institute for Fiscal Studies.

- There will be a lower incidence of redundancies of pregnant women and new parents upon their return to work as employers are required to offer them (not just invite them to apply for) any suitable remaining roles.
- Individuals will better understand their rights, and find it easier to exercise them if any unlawful discrimination occurs as the redundancy protection will apply consistently from pregnancy through to a return to work period.
- Businesses are aware of their obligations, and of their employees' rights around unlawful discrimination. Greater consistency of redundancy protection for parents from pregnancy through to a return to work will make it easier for employers to understand and comply with their obligations.

29. This policy is part of a range of policies aiming to tackle discrimination against mothers and change the culture surrounding mothers and new parents in the workplace. We hope that this policy will contribute to achieving the policy objectives set out above, but recognise that a range of other factors (such as attitudinal shifts and effective enforcement) are necessary in parallel.

## **Options Identification**

30. The main options considered are:

### **Option 1 – Do nothing**

31. The protection against redundancy afforded by MAPLE would continue to apply only during the relevant leave period (Maternity Leave, Adoption Leave and Shared Parental Leave). The issue of employers making a new mother or parent redundant immediately on return to work would remain. Discrimination against pregnant women and new parents would likely remain pervasive.

### **Option 2 – More effective advice and guidance**

32. A promotional campaign and further guidance for employers is unlikely to be a sufficient response to the problem of pregnancy and maternity discrimination. 70% of employers reported a high level of awareness of pregnant employees' rights (BIS/EHRC survey), and this percentage increased with firm size up to 89% for large employers, suggesting that awareness is not the issue.

33. Despite this, we have committed to review and update advice and guidance on pregnancy and maternity discrimination generally to ensure guidance is effective as it can be.

34. We have established a taskforce of employer and family representative groups that make recommendations on what improvements can be made to the information available to employers and families on pregnancy and maternity discrimination. However, advice and guidance alone cannot address the issue of different levels of protection applying across pregnancy, maternity, adoption and shared parental leave periods. This can only be addressed through legislation.

### **Option 3 – Legislate to extend the existing MAPLE protections to pregnant women, and to new parents returning from Maternity/Adoption/Shared Parental Leave.**

35. This option requires primary legislation. Redundancy protection will be extended to eligible pregnant women, and a blanket 18-month period of protection would apply for parents taking relevant leave (Maternity/Adoption/Shared Parental Leave).

36. There is a clear preference for this option. Over three quarters of consultation respondents agree that redundancy protection should apply for mothers returning to work. 75% of respondents felt that 6 months upon return to work is an appropriate time period. The protections will also apply to partners returning from Adoption Leave and Shared Parental Leave (SPL). Over 80% of consultation responses favoured redundancy protection for these groups too.

Whilst Maternity and Adoption Leave are taken as a single block, SPL is designed to give parents flexibility. It can be taken in multiple blocks, for varying lengths of time, throughout the first year of a child's life. Providing redundancy protection to partners returning from SPL is, therefore, more complicated than for adoptive parents and mothers. Giving an SPL parent 6 months redundancy protection following one week of SPL, say, would not be in the spirit of the policy. We propose a blanket 18-month period from child's birth of redundancy protection for parents. We are undertaking further consultations on the purpose of, need for and length of a qualifying period of relevant leave to ensure that the ensuing regulations provide appropriate protection.

37. The protection period will start as soon as you tell your employer that you are pregnant. The protection continues to apply for the entire period of maternity leave as is currently the case through MAPLE 1999 – which can be up to 12 months. We plan to extend this further, for a period of 6 months of return to work. This means a total duration of up to 27 months. Given women are currently protected during Maternity Leave, the additional period of protection will be 15 months (9 months during pregnancy and then 6 months on return following Maternity Leave).

38. Crucially, pregnant women will be protected from redundancy when they inform their employer. Over two-thirds of consultation respondents agree that redundancy protection for pregnant mothers should apply at this point.

39. Having considered multiple options on the length of protection, a blanket 18-month period following the child's birth is considered sufficient time for new parents to re-establish themselves in the workplace and demonstrate their value to the employer. There is limited evidence on the effectiveness of similar proposals in other countries, but in Germany the redundancy protection period is 4 months. WESC recommended a protection period of 6 months. A blanket 18-month period of protection will ensure that most new parents are protected for at least 6 months. The average duration of Maternity Leave is estimated at 9 months, based on evidence from the Maternity and Paternity Rights Survey (2008), and the maximum duration is 12 months.

40. Extending MAPLE protections to the new periods of time and types of leave will ensure consistency across legislations and providing a blanket 18-month protection period is a simple approach that will be easy to understand for employers and employees. Including SPL and Adoption Leave also ensures that we are not discriminating against parents who have taken long periods of these leave entitlements.

41. The Government is also committed to improving the provision of information on maternity rights to ensure that employees can better understand their rights and employers are aware of their obligations. In response to the Taylor review of modern working practices, the Government committed to consolidating the maternity and discrimination pages on GOV.UK and working more closely with a range of partners such as Acas and EHRC.

42. The consultation, Government response and accompanying consultation stage Impact Assessment have been published<sup>13</sup>.

**Rationale and evidence that justify the level analysis using in the IA (proportionality approach):**

43. For a final stage IA we have modelled the costs and benefits to the best of our ability with the evidence available, and strengthened the evidence base with consultation responses. We have made use of data sources available to us, such as Labour Force Statistics microdata and survey data, and drawn on relevant academic research to evidence our assumptions and policy development. We have taken a proportionate approach to analysis for this IA, given that there is substantial uncertainty around the behavioural response of firms to the proposed policy. We have attempted to address this uncertainty by analysing different scenarios for firm behaviour and conducting sensitivity analysis included in the Annex.

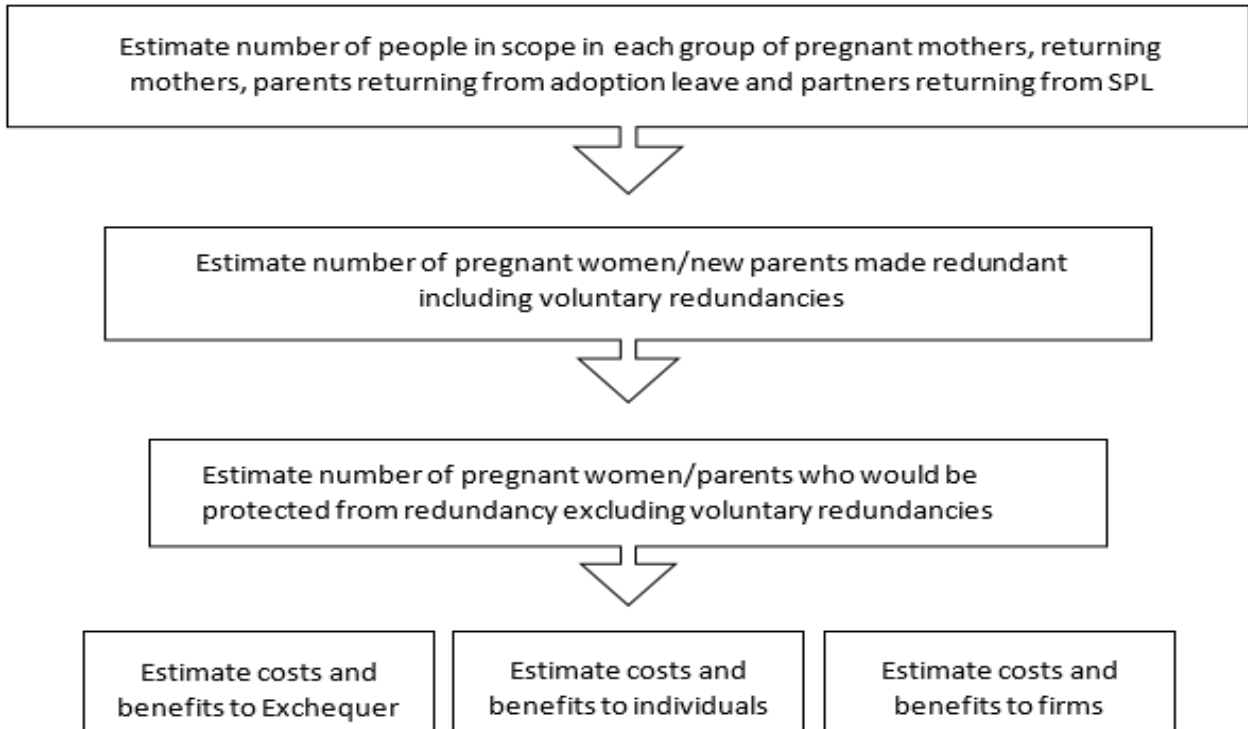
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<sup>13</sup> <https://www.gov.uk/government/consultations/pregnancy-and-maternity-discrimination-extending-redundancy-protection-for-women-and-new-parents>

## Monetised costs and benefits

### *The Methodological Approach*

44. The flowchart below sets out a high-level approach of the cost and benefit modelling. We firstly estimate the eligible population before modelling costs and benefits to individuals, businesses and the Exchequer of the regulatory change.



### *Eligible population*

#### **Pregnant women and those returning from maternity leave**

45. To estimate the total number of new and expectant mothers in employment, we use data on the number of births a year and female employment rates<sup>14</sup>.

46. Since the policy only affects those in employment, we estimate the employment rate for females of child-bearing age. Analysis of 2020 ONS data shows that almost 100% of births are to women aged 45 or under<sup>15</sup>. We assume that women of child-bearing age are aged 16-49. As the age bands in the data for female employment rate and age of mother at childbirth do not align, we use female employment rates for ages 16-49. This relies on the assumption that the employment rate for females aged 46-49 is similar to that of females aged 35-45. This assumption is reasonable as those aged 46-49 will not have reached the State Pension age (65 for women) yet, and published ONS 2022 data<sup>16</sup> estimates the employment rate of women aged 25-54 was 80% in 2021, which is close to

<sup>14</sup> We use ONS and NRS data on live birth characteristics split by the age of the mother to derive the total number of births in Great Britain, 690,200 for 2020 (the most recent data available).

<sup>15</sup> <https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/livebirths/datasets/birthsbyparentscharacteristics>

<sup>16</sup> <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/timeseries/i64p/lms>

the rate for women aged 35-49<sup>17</sup>. To calculate the employment rate for females aged 16-49 we estimate the size of the labour force across age bands using ONS data<sup>18</sup>.

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<sup>17</sup> <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/timeseries/ybul/lms>

<sup>18</sup> Table A05: Labour market by age group: Women by economic activity and age (seasonally adjusted) , ONS

**Table 1 – Employment levels and rate for females aged 16–49, Jun-Aug 2021, UK**

Age group	Population	Employment level	Employment Rate
16 -17	712,000	170,000	27.7%
18 -24	2,612,000	1,610,000	61.6%
25 – 34	4,400,000	3,535,000	80.3%
35 – 49	6,382,000	5,159,000	80.8%
<b>16-49 (grouped)</b>	<b>14,106,000</b>	<b>10,474,000</b>	<b>74.2%</b>

47. Applying the employment figure above to the total number of births<sup>19</sup> gives us the total number of new and expectant mothers in employment. Since the self-employed fall outside the scope of the policy we strip these out of the eligible population. In the absence of published age breakdowns for women who are self-employed, we make use of the overall self-employment rate (16 – 64) for women as proxy for self-employment rate new mothers (9.8%)<sup>20</sup> and remove these from the employed population.
48. We exclude new and expectant mothers working in businesses with only one employee<sup>21</sup> under the simplifying assumption that a proportion of these firms will genuinely require a redundancy and have no other staff who can be made redundant instead.
49. Following this, we then use findings from the BIS/EHRC report, using the proportion of pregnant women and mothers returning from maternity leave who were made redundant, which were 1% and 2% respectively<sup>22</sup>. This gives us the total number of women made redundant (including voluntary redundancies) whilst pregnant and on return from maternity leave. To derive the number of women made involuntarily redundant we focus on the proportion of cases where an alternative position was not offered, or a position was offered at a lower level (73%)<sup>23</sup>; the remaining 27% were offered alternative positions at the same or higher level. The 73% figure is applied to the estimated number of women made redundant (including voluntary redundancies) to obtain the populations of pregnant women/new mothers made involuntarily redundant. The boxes on page 15 show how we have calculated the final populations for pregnant women and returning mothers.
50. We rely on evidence from the BIS/EHRC research to underpin assumptions on the proportion of pregnant women and mothers returning from maternity leave made redundant, and the percentage of women who are made involuntarily redundant. These figures represent the best evidence that we have and are supported by more recent findings from the Parental Rights Survey. The consultation responses further indicate the need for legislative reform.
51. We have cautiously assumed that, following the implementation of the policy, the percentage of businesses offering alternative positions at a lower level (73%) will remain the same as estimated in the 2016 research as we cannot directly calculate firms' behavioural response. Firms may respond to the policy by ensuring they offer pregnant women/new parents suitable alternative positions (at the same or higher level). However, under MAPLE, it is already unlawful to not do this – those on maternity leave who are

<sup>19</sup> ONS and NRS data on live births (2019, 2020)

<sup>20</sup>

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/datasets/fulltimeparttimeandtemporaryworkrsseasonallyadjustedemp01sa>

<sup>21</sup> This has been calculated as 0.6% but has been shown below in workings as 1% for simplicity.

<sup>22</sup> Pregnancy and Maternity related discrimination and disadvantaged research: Experiences of mothers (2016),

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/509501/BIS-16-146-pregnancy-and-maternity-related-discrimination-and-disadvantage-experiences-of-mothers.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/509501/BIS-16-146-pregnancy-and-maternity-related-discrimination-and-disadvantage-experiences-of-mothers.pdf)

<sup>23</sup> As this mirrors current protections for women on maternity leave, which effectively require employers to offer those on maternity leave an alternative post at a level comparable with their current post.

made redundant are entitled to be offered a suitable alternative vacancy. There is also little evidence available on how the improved advice and guidance may have improved employer behaviour in the meantime, so the 73% assumption remains the best available evidence and can be viewed as capturing the upper range of costs<sup>24</sup>.

52. Following introduction of the policy, some employers may incur administrative costs from collecting evidence for a redundancy decision. These costs have not been estimated as we assume that in the counterfactual scenario businesses already collect such evidence. In the case of women facing maternity discrimination, under the Equality Act 2010 it is unlawful to treat women less favourably due to their maternity. In this case, redundancy may amount to unfair dismissal. Employers must follow a fair redundancy process, and good practice involves using objective criteria to select employees at risk of redundancy, or firms risk appeals against unfair dismissal and the potential of Employment Tribunal cases. This process would involve collecting evidence to justify the redundancy decision. Unfair selection criteria include pregnancy, maternity, paternity and parental leave and thus the same reasoning applies for pregnant women (who have even stronger protections under MAPLE), and for adoptive parents and parents who take SPL (who have similar protections under the Equality Act 2010).

53. Under the current system, employers could still be justified in making pregnant women/returning mothers redundant for reasons unrelated to pregnancy and where it can be demonstrated that no suitable alternative position exists, e.g. where businesses faced the threat of bankruptcy and closure. Since this would still follow under the proposed policy, we attempt to carve out these cases, using data from European Restructuring Monitor (ERM)<sup>25</sup>, which provides information on the large restructuring events reported in national media across EU member states. The data shows that 31% of job losses can be attributed to bankruptcy/closure, offshoring or relocation<sup>26</sup>. We deduct the percentage of cases from the entire target population to arrive at a final figure below. One limitation with the data source is that the monitor almost exclusively reports on restructuring in medium and larger size firms. Whilst we do not have information for small firms, we would imagine that the percentage of jobs lost to bankruptcy or closure in these firms would likely to be higher, since small firms tend to have less complex organisational structures and are likely to incur job losses for more conventional reasons. The database has covered restructuring events since 2002 so is unlikely to be adversely impacted by the economic downturns. Moreover, the overall percentage of employees made redundant for legitimate reasons across all businesses could be higher, as there may be other legitimate reasons other than bankruptcy/closure, offshoring or relocation for redundancy.

54. The box below shows the calculation steps involved in identifying the potential policy population within scope<sup>27</sup>.

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<sup>24</sup> We have performed sensitivity analysis on this assumption and found that a change of 1p.p to 72% decreases recurring business costs by around £1.3m per annum.

<sup>25</sup> [https://www.eurofound.europa.eu/observatories/emcc/erm/restructuring-statistics?field\\_value\\_group\\_by=restructuring\\_type&field\\_value\\_country=9520&field\\_value\\_sector=All&date\\_from=&date\\_to=&edit-submit=Apply](https://www.eurofound.europa.eu/observatories/emcc/erm/restructuring-statistics?field_value_group_by=restructuring_type&field_value_country=9520&field_value_sector=All&date_from=&date_to=&edit-submit=Apply)

<sup>26</sup> Stripping out these cases leaves us with 69% cases (100% - 31%). We carve out these cases to avoid including cases where the employer could be justified in making redundancies for reasons unrelated to pregnancy and thus avoid overestimating the target population.

<sup>27</sup> The percentage figures presented are based on BEIS analysis of LFS microdata of females with dependent children aged under 1 specifically and may differ from employment rates used elsewhere (not specific to parents with children under 1).



Protection on return from Maternity Leave	Protection while pregnant
<p>Total number of women made redundant on return from maternity leave including 'voluntary' redundancies = Total number of new and expectant mothers employed in workplaces with more than 1 employee x Proportion of all mothers reported being made redundant on return from maternity leave</p> <p>= 488,900 x 2% = 9,800</p>	<p>Total number of women made redundant while pregnant including 'voluntary' redundancies = Total number of new and expectant mothers employed in workplaces with more than 1 employee x Proportion of all mothers reported being made redundant whilst pregnant</p> <p>= 488,900 x 1% = 4,900</p>
<p>Women who would be protected from redundancy on return from maternity leave excluding voluntary redundancies = Total number of women made redundant on return from maternity leave including 'voluntary' redundancies x Share of new and expectant mothers were made redundant where no alternative position offered/lower level</p> <p>= 9,800 x 73% = 7,100</p>	<p>Women who would be protected from redundancy while pregnant excluding voluntary redundancies = Total number of women made redundant while pregnant including 'voluntary' redundancies x Share of new and expectant mothers were made redundant where no alternative position offered/lower level</p> <p>= 4,900 x 73% = 3,600</p>
<p>Women who would be protected from redundancy on return from maternity leave excluding voluntary redundancies (excluding bankruptcy/closure cases/offshoring/relocation) = Women who would be protected from redundancy on return from maternity leave excluding voluntary redundancies x Percentage of job losses not due to bankruptcy/closure/offshoring/relocation</p> <p>= 7,100 x 69% = <b>5,000</b></p>	<p>Women who would be protected from redundancy while pregnant excluding voluntary redundancies (excluding bankruptcy/closure cases/offshoring/relocation) = Women who would be protected from redundancy while pregnant excluding voluntary redundancies x Percentage of job losses not due to bankruptcy/closure/offshoring/relocation</p> <p>= 3,600 x 69% = <b>2,500</b></p>

**Partners returning from shared parental leave**

55. To estimate the eligible population of partners returning from SPL, a similar methodology is used. We use the estimated number of partners eligible for SPL (285,000), taken from

the original SPL IA<sup>28</sup>, and then apply a take-up rate of 4% based on evidence relating directly to SPL take-up from both the Parental Rights Survey and Management and Wellbeing Practices Survey (MWPS). We then estimate the number of SPL partners in workplaces with more than 1 employee at 11,300 using the same approach as above. The proportion of SPL partners made redundant on return from SPL is assumed to be 2%; the same percentage used for mothers, in absence of further evidence. Applying this percentage to the figure of 11,300 gives the number of SPL partners made redundant on return from SPL, including voluntary redundancies (230). The share of SPL partners made redundant where no alternative or lower level position was offered is assumed to be 73%, as for mothers, in absence of further evidence. Multiplying 230 by this percentage gives a final estimate for the number of SPL partners who would be protected from redundancy on return from SPL, excluding voluntary redundancies (100).

SPL parents in workplaces with more than one employee = number of parents that take up SPL – number of SPL parents in workplaces with only one employee (number of parents that take up SPL x % of UK private-sector employment in workplaces with 1 employee)

$$= 11,300 - (11,300 \times 0.6\%) = 11,300$$

SPL parents made redundant on return including voluntary redundancies = SPL parents in workplaces with more than one employee x % of SPL parents made redundant on return

$$= 11,300 \times 2\% = 230$$

SPL parents protected from redundancy on return excluding voluntary redundancies = SPL parents made redundant on return including voluntary redundancies x % of SPL parents made redundant where no alternative/lower level position offered x % of job losses not due to bankruptcy/closure/relocation

$$= 230 \times 73\% \times 69\% = 100$$

## Parents returning from adoption leave

56. To estimate the eligible population of parents returning from adoption leave, we estimate the total number of individuals taking adoption leave and then carve out the eligible population using the same approach for mothers and SPL partners. The total number of adoptions each year is estimated at 3,500 made up of the number of looked after adoptions (DfE, 2020)<sup>29</sup>, the number of overseas adoptions (Global Statistics for Intercountry Adoption, 2020)<sup>30</sup> and the number of surrogacy adoptions each year (Family Court Statistics, 2020)<sup>31</sup>. To qualify for adoption leave, an individual must be an employee. One parent is entitled to take adoption leave, and it is possible for the other parent to take SPL. For simplicity, we assume that a mother will take adoption leave and a father/partner will take SPL. This is based on evidence (HMRC Statutory Payments data) where females predominantly (75%) make up those in receipt of Statutory Adoption Pay. The take-up of adoption leave is conservatively assumed to be 100%, in absence of further evidence. To estimate the number of adoptive parents in employment, therefore, we multiply the female (with dependent child under 1) employment rate (77.5%) by the total number of adoptions each year resulting in an estimate of 2,700. We then carve out the self-employed and workplaces with only 1 employee to estimate the number of

<sup>28</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/110692/13-651-modern-workplaces-shared-parental-leave-and-pay-impact-assessment2.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/110692/13-651-modern-workplaces-shared-parental-leave-and-pay-impact-assessment2.pdf)

<sup>29</sup> <https://explore-education-statistics.service.gov.uk/find-statistics/children-looked-after-in-england-including-adoptions/2020>

<sup>30</sup> <https://www.hcch.net/en/instruments/conventions/publications1/?dtid=32&cid=69>

<sup>31</sup> <https://www.gov.uk/government/statistics/family-court-statistics-quarterly-july-to-september-2021>

adoptive parents in workplaces with more than 1 employee at 2,500. The same assumptions are applied as mothers returning from maternity leave on the proportion of mothers made redundant on return from maternity leave and the proportion of mothers made redundant where no alternative/lower level position was offered. This gives an estimate of the number of adoptive parents made redundant on return from adoption leave, excluding voluntary redundancies. This number and break downs of the calculations are suppressed due to the size of the numbers.

## **Monetised costs**

57. There are potentially multiple costs and benefits associated with this policy change. We have monetised the costs and benefits which are the most significant and directly linked to the policy. We also consider some 2<sup>nd</sup> and 3<sup>rd</sup> round impacts, these are discussed in the annexes. Monetised costs are divided into one-off (familiarisation) costs for businesses, and recurring costs to businesses, individuals and the Exchequer.

### **One-off costs**

#### **Business familiarisation costs**

58. Due to the policy, businesses will have to spend more time familiarising themselves with the new legislation. Businesses will already be broadly familiar with the policy as this legislation is an extension to existing legislation. Familiarisation with the legislation is assumed to consist of reading and understanding the legislation and informing staff within the organisation. We do not expect firms to provide additional formal training on this legislation, as the legislation only extends existing redundancy protection to new groups of employees. The full costs of familiarisation for redundancy protection under MAPLE were captured when the original policy was introduced.

59. Through consultation we have tested our assumptions around familiarisation, including through discussions with the Chartered Institute of Personnel and Development (CIPD). We are unable to specifically evidence our assumptions with a published data source but are reassured that the pregnancy and maternity discrimination laws do not create significant familiarisation burdens on employers. Around 61% of private sector employers stated that these laws are “well drafted” and “easy to apply” in a 2016 CIPD survey on employment law burdens.

60. We assume that each small business will spend less time on familiarisation than each large business, as smaller firms, by definition, have fewer staff to inform. They also have less complex communication systems so filtering information down the organisation will be less resource intensive. We assume that for smaller businesses (1 – 49 employees)<sup>32</sup>, a manager or senior member of staff will spend around 30 minutes to understand the extension to the policy, in line with familiarisation time assumed for other areas of employment law (national living wage, one sided flexibility etc).

61. For larger businesses, HR directors are assumed to spend time understanding the changes to the policy and inform other members of staff (particularly managers) of the new groups eligible for redundancy protection. For large businesses (>50 employees), we assume that an HR director and 3 HR administrative assistants will each spend around 2 hours on familiarisation.

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<sup>32</sup> Despite not including women who work in businesses with only one employee when calculating the number of eligible women, we include businesses with only one employee in the calculation of the familiarisation costs. This is because we assume that businesses with only one employee will familiarise themselves with the policy even though they will never make use of it.

62. In large businesses, an HR Manager or Director is likely to be responsible for familiarisation. Using data from the Annual Survey of Hours and Earnings 2021<sup>33</sup> (ASHE), the mean hourly wage rate is £26.52 per hour. Applying an uprating of 21.8% to include non-wage labour costs results in a total rate of £32.30 per hour. In addition, in large firms we assume that 3 HR administrative assistants on £12.50 per hour will familiarise themselves with the legislation. After accounting for non-wage costs, the total rate is estimated at £15.22 for each assistant. For small firms, we assume the Managing Director/Owner will be responsible for familiarisation. The average wage of Managers/Directors/Senior official is £26.60 (rising to £32.40 after adjusting for non-wage costs). The table below shows the approach taken for estimating familiarisation costs.

**Table 2 – Familiarisation costs for businesses**

<b>Business Size</b>	<b>Number of firms</b>	<b>Assumed Time (hrs)</b>	<b>Wage and non- wage cost (per hour)</b>	<b>Total Costs</b>
Small Firms (1 – 49 employees)	1,392,000	0.5	£32.40	<b>£22.5m</b>
Large Firms (>50 employees)	51,000	2	£77.96	<b>£7.9m</b>

63. Using the 2021 BEIS Business population estimates to estimate the number of firms affected, we **estimate total familiarisation costs to be £30.4m.**

**Recurring costs**

The monetised recurring costs are:

- i) **Net business costs:** Large employer contribution to maternity payments (minus benefit to small employers)
- ii) **Exchequer costs:** Statutory Maternity Pay cost (discounted by amount covered by business)

**i) Business costs: employer contribution to Statutory Maternity Pay (SMP) costs**

64. Firms who otherwise would have made a pregnant woman redundant will now contribute to Statutory Maternity Pay (SMP). This entitlement is equivalent to 90% of salary for the first six weeks of maternity leave, and £156.66 per week for the subsequent 33 weeks. Employers administer statutory pay on behalf of Government and small employers can recover 103% of statutory payments that they make to their employees from HMRC. This represents a benefit to small businesses of 3% of their Statutory Maternity Pay. Larger employers (defined as those with a National Insurance contributions bill of £45,000 or more) can recover 92% of Statutory Maternity Pay made to their employees, thus large employers face a cost of 8% of their Statutory Maternity Pay. Using Business Population Estimates we calculate an average contribution of 5.8% to Statutory Maternity Pay from employers.

65. To qualify for Statutory Maternity Pay, employees must have worked continuously for the same employer for at least 26 weeks and earned on average £120 per week. Analysis of LFS micro data shows that 95.7% of female employees with a dependent child under 1

<sup>33</sup> <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasEmploymentTribunal/occupation4digitsoc2010ashtable14>

have worked for the same employer continuously for at least six months. For the earnings requirement we use ASHE 2021 data to estimate the percentage of female employees who earn at least £120 per week at 92%.

**Table 3 – Statutory Maternity Pay costs for Employers**

Eligible population	2,500
% working at least 6 months	95.7%
% earning at least £120	92%
Population eligible for SMP	2,200
Maternity pay per person	£7,500
Average Business contribution	5.8%
Total Business contribution to SMP	£0.9m*
*Differences in total due to rounding	

**66. Overall, this yields a best estimate of maternity payments to employers of £0.9m per year.**

**ii) Exchequer cost: Statutory Maternity Pay costs**

67. Statutory Maternity Pay mainly represent costs to the Exchequer. Pregnant women who previously would have been made redundant will now be able to claim SMP at cost to the Exchequer. The methodology set out above is used to estimate the number of eligible women who satisfy the criterion for claiming SMP.

68. As large employers can reclaim 92% of SMP and small employers 103%, the Exchequer cost of SMP represents 94.2% of payments to pregnant women.

69. Accounting for the proportion of the payment covered by large businesses and the (larger) proportion recovered by small businesses, we estimate annual Exchequer SMP costs at £15.3 million.

$$\text{Exchequer SMP costs (annual)} = (2,500 \times 95.7\% \times 92.0\%) \times (£7,500) \times (1 - 5.8\%)$$

By also accounting for the proportion of pregnant women who will not qualify for SMP, but claim Maternity allowance (calculations below), **we estimate total annual costs of SMP and MA to the Exchequer of £17.1m.**

These costs (as with the Exchequer benefits below) are subject to uncertainty driven by the behaviour of employers in response to any new regulation. We expect any net increase in cost to the Exchequer to be very small - around £2 million pa. We will work closely with HMT and DWP to agree these and final estimates will be set out in an accompanying Impact Assessment when regulations to implement the entitlement are brought forward.

### Maternity Allowance

Eligible population for MA = Population size – Eligible population for SMP  
2,500 – 2,200 = 300

Value of Maternity Allowance = 39 weeks x £156.66 151.97 (statutory flat rate)  
39 x £156.66 = £6,100

Total Maternity Allowance = Eligible Population for MA x Value of Maternity Allowance  
300 x £6,100 = £1.8m

## Monetised benefits

### Recurring benefits

The monetised recurring benefits are:

- i. **Benefits from improved employer relations** (i.e. reduced Employment Tribunals and Early Conciliation) – benefits all groups
- ii. **Individual benefit:** additional statutory payments (Statutory Maternity Pay less Maternity Allowance payment)
- iii. **Exchequer benefit:** Savings from no longer paying Maternity Allowance

### i) Benefits from improved employer relations – benefits businesses, individuals and Exchequer:

70. We expect some savings associated with a reduction in the number of individuals seeking to enforce their rights through Employment Tribunal and Early Conciliation. The extension to the protected period will mean fewer pregnant women and returning parents will be made redundant. This avoids a source of potential employee-employer conflict, which may centre on the issue of fairness or on whether the correct process was followed. The sections below sets out the business, employee and exchequer benefits from this change. We have assumed that the protection period of 6 months on return to work gives parents sufficient time to re-establish themselves in work and will mean employers will not simply delay any redundancy decisions to a later point.

#### Business savings from reduced Employment Tribunals and Early Conciliation

71. Business may see savings from the reduction in pregnant women/returning parents made redundant going to an employment tribunal or seeking early conciliation. We apply figures from the report on the proportion of mothers seeking advice from Acas on early conciliation (4%) and lodging a complaint at the employment tribunal (1%)<sup>34</sup> to our eligible population to derive the number of pregnant mothers and new parents who will no longer have to go through employment tribunal (100) or early conciliation (200)<sup>35</sup>.

72. The employer savings from a reduction in employment tribunal (ET) cases arise from the Director and senior staff time spent, HR time spent and the median paid costs for advice and representation. Based on the Survey of Employment Tribunal Applications (SETA) 2018, Directors spend 6.25 days on a case and HR staff spend 0.5 days on a case. Assuming 8 working hours in a day, we use ASHE 2021 median hourly wages (adjusted for non-wage costs) for Chief Executives, senior officials, HR managers and directors respectively to estimate the unit cost of time spent by Directors and senior staff and HR

<sup>34</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/509501/BIS-16-146-pregnancy-and-maternity-related-discrimination-and-disadvantage-experiences-of-mothers.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/509501/BIS-16-146-pregnancy-and-maternity-related-discrimination-and-disadvantage-experiences-of-mothers.pdf), p145)

<sup>35</sup> Figures rounded to nearest 100

on an ET case. Combined with the median paid costs for advice and representation (£3,400, also SETA 2018), we estimate the unit employer cost of defending an ET case at £5,400.

73. The employer savings from a reduction in early conciliation (EC) are based on the approach in the Early Conciliation Impact Assessment, which uses evidence from an Acas survey on pre-claim conciliation and updated for inflation. The unit cost of early conciliation is estimated at £280.
74. It is difficult to predict the business response to legislative change, and it is possible that changes will lead to redundancies elsewhere in the business (see Annex A for discussion on scenarios). In the absence of supporting evidence, we apply a factor of 50% to the eligible population to account for this uncertainty for our best estimate. We apply a factor of 0% and 100% respectively for low and high scenarios. Combined with BEIS estimates of the unit employer costs of defending an employment tribunal claim (£5,400) and costs of early conciliation (£280) based on a survey of employment tribunal applications<sup>36</sup> **we estimate annual savings to employers between £0m and £0.5m with a best estimate of £0.2m per year.**

#### Individual Savings from reduced Employment Tribunals and Early Conciliation

75. Following a similar strategy used to estimate these benefits for businesses above we attempt to calculate savings for individuals who no longer go to tribunal or early conciliation. The costs of a claimant going to ET arise from time spent on the case, costs of advice and representation, and travel and communication costs. Based on SETA 2018 evidence, claimants are assumed to spend 7.5 days on a case and 8 working hours per day. Applying the median hourly pay (£14.05) from ASHE 2021, we estimate an individual spends £840 per case. The median paid cost of advice and representation for a claimant is estimated to be £1,400, and an additional £28 for communication and travel costs (SETA 2018). In total, the unit individual cost of an ET hearing for claimants is therefore estimated at almost £2,300.
76. The unit cost for EC (£120) is based on evidence from an Acas Individual Conciliation Evaluation. The costs arise from time spent on completing the intention to claim form, time spent in conciliation and preparation, and legal representation.
77. **Combining the benefits arising from reduced ET and EC claims, we estimate annual savings to individuals between £0m and £0.2m, with a best estimate of £0.1m per year.**

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<sup>36</sup> Findings from the Survey of Employment Tribunal Applications 2018 (SETA)

### **Employment Tribunal Savings**

#### **Step 1 unit cost**

Claimants spend 7.5 days on a case x  
8 working hours per day x £14.05  
(Median hourly pay) = £840  
+  
£1,400 (Median cost of advice and  
representation)  
+ £28 (Communication and travel  
costs)  
= £2,300

#### **Step 2 total cost**

Number of ET claimants\* among  
pregnant employees + those on return  
to work (including Maternity, Adoption  
and Shared Parental Leave) = 35  
x  
£2,300 (unit cost)  
= £0.08m

\*Based on the eligible population x 1%  
(proportion of mothers bringing a  
complaint to ET), applying 50%  
adjustment for central scenario

### **Early Conciliation Savings**

#### **Step 1 unit cost**

Average representation costs spread  
across all cases (given small % of  
employees seek representation and pay for  
it) = £20  
+  
(7 hours spent on case x £14.05 (Median  
hourly pay = £100)  
=  
£120 (Total claimant cost of EC)

#### **Step 2 total cost**

Number of EC claimants\* among pregnant  
employees + those on return to work  
(including Maternity, Adoption and Shared  
Parental Leave) = 150  
x  
£120 unit cost  
= £0.02m

\*Based on the eligible population x 4%  
(proportion of mothers seeking early  
conciliation) , applying 50% adjustment for  
central scenario

### **Exchequer Savings from reduced Employment Tribunals and Early Conciliation**

78. Like businesses and individuals, the Exchequer now benefits from savings relating to ET and EC claims for both pregnant women and mothers returning to work. The methodology is the same as for businesses and individuals, but we apply the unit Exchequer costs to derive the aggregate savings to the Exchequer.

79. The unit Exchequer cost of an employment tribunal hearing is £2,300 (MoJ estimate of the average cost of ET case to MoJ). The Exchequer cost of early conciliation is £170, taken from the Acas annual report 2020/21<sup>37</sup>. Applying these costs to the estimated number of eligible pregnant women and new parents who go through EC and ET, **we estimate annual savings to the Exchequer between £0m to £0.2m, with a best estimate of £0.1m.**

### **ii) Individual Benefit: Statutory Maternity Pay paid to individual following policy implementation (including SMP and MA) less Maternity Allowance (MA) payment before policy implemented**

80. Pregnant women who are no longer made redundant will now benefit from Statutory Maternity Pay (there may also be additional benefits from any occupational maternity pay the employers chooses to pay beyond the statutory rate) paid at 90% of average salary for the first 6 weeks and at the statutory rate for £156.66 per week for the remaining 33 weeks.<sup>38</sup> However, we also assume that women who were made redundant prior to the

<sup>37</sup> <https://archive.acas.org.uk/annualreport>

<sup>38</sup> <https://www.gov.uk/maternity-pay-leave/pay>



implementation of the policy would claim MA, which is paid to those that do not qualify for SMP (including self-employed and unemployed) at the statutory rate for the entire 39 weeks (i.e. they do not receive 6 weeks at 90% of average salary). We calculate the difference to derive the net benefit of Statutory Maternity Pay compared to Maternity Allowance to mothers. We assume that all pregnant women otherwise made redundant would have been able to claim MA given the low earning threshold for the qualifying criterion.

**Maternity Pay to individuals following policy implementation (including SMP and MA)**

Statutory Maternity Pay

Eligible population for SMP = Population size x % employed for at least 6 months x percentage earning above Lower Earnings Limit  
 $= 2,500 \times 95.7\% \times 92.0\% = 2,200$

Average Statutory Maternity Pay = 6 weeks x (90%) Average Weekly Earnings + 33 weeks x £156.66 (statutory flat rate)  
 $(£381.79 \times 6) + (156.66 \times 33) = £7,500$

Total Statutory Maternity Pay = Eligible Population for SMP x Average Statutory Maternity Pay  
 $2,200 \times 7,500 = £16.3m^*$

\*The figures may not sum to total due to component figures rounded to the nearest 100.

Maternity Allowance

Eligible population for MA = Population size – Eligible population for SMP  
 $2,500 - 2,200 = 300$

Value of Maternity Allowance = 39 weeks x £156.66 151.97 (statutory flat rate)  
 $39 \times £156.66 = £6,100$

Total Maternity Allowance = Eligible Population for MA x Value of Maternity Allowance  
 $300 \times £6,100 = £1.8m$

**Net benefit of Statutory Maternity Pay and Maternity Allowance to mothers following policy implementation = £16.3m + £1.8m = £18.1m**

81. For pregnant women no longer made redundant, we assume that this entire group would have claimed Maternity Allowance (MA) previously. These payments are calculated by taking the statutory pay rate for maternity allowance and assuming all pregnant women previously made redundant would have claimed this for the entire 39 weeks (this implicitly assumes that the employee will not secure alternative employment following their redundancy in the first 9 months after having a baby).

**Table 4: Maternity Allowance payments no longer paid**

Eligible population	2,500
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Unit Cost of MA (£156.66 per week for 39 weeks)	£6,100
Total Savings of not having to pay MA	£15.1m

82. The net benefits to individuals are estimated by calculating the total payments from maternity pay (SMP and MA) less maternity allowance prior to policy implementation, aggregated across all the women who would be protected from redundancy while pregnant. We **estimate an annual benefit of £2.9m per year to individuals from maternity payments less maternity allowance.**

**Table 5: Individual benefits (Statutory Maternity Pay and Maternity Allowance)**

<b>Before Policy Implemented (Counterfactual)</b>	
Maternity Allowance	£15.1m
<b>After Policy implemented</b>	
Statutory Maternity Pay	£16.3m
Maternity Allowance <sup>39</sup>	£1.8m
<b>Total (SMP + MA)</b>	<b>£18.1m</b>
<b>Net benefit</b>	
	£2.9m*

\*\*The figures may not sum due to rounding.

### **iii) Exchequer benefit: Savings from no longer paying Maternity Allowance**

83. As outlined above, for pregnant women no longer made redundant, we assumed that this entire group would have MA, which is less generous than SMP. These are both Exchequer costs (for SMP employers can reclaim the costs from Government). Under the proposed option, these women who are protected under the enhanced redundancy protection will no longer claim MA and instead be entitled to SMP. Therefore, we include the savings to the Exchequer from no longer incurring the costs associated with MA (the costs incurred from Statutory Maternity Pay are calculated separately).

84. Using the calculations in Table 4, we **estimate annual savings to the Exchequer of £15.1m per year.**

### **Summary of monetised costs and benefits**

85. Table 6 shows all the monetised costs and benefits estimated for the IA. The largest cost component are the labour costs to businesses, which represent a direct transfer from businesses to pregnant and returning parents. Low, central and high estimates are included for savings associated with reduced ET/EC costs.

**Table 6 – NPV of monetised costs and benefits from consolidating redundancy protections (for pregnant women and new parents returning from maternity/adoption/shared parental leave) for 10 year appraisal period, 2019 prices**

	<b>Low estimate</b>	<b>Central estimate</b>	<b>High Estimate</b>
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<sup>39</sup> Using the qualifying criterion, we find approximately 200 women would not qualify for SMP once the reforms are implemented and thus assume they would have been able to claim MA instead at cost to the Exchequer. These are also added to the SMP payments paid out of the Exchequer to arrive at a total Exchequer impact.

<b>Business Costs</b> (NPV across 10 year appraisal period, 2019 prices)			
One-off (familiarisation costs)	£30.4m	£30.4m	£30.4m
Large employer contribution to maternity payments	£7.7m	£7.7m	£7.7m
<b>Total business costs</b>	<b>£38.1m</b>	<b>£38.1m</b>	<b>£38.1m</b>
<b>Business Benefits</b> (NPV across 10 year appraisal period, 2019 prices)			
Savings in costs for ETs and EC	£0m	£1.7m	£4.3m
<b>Net Business Impact</b>			
	<b>-£38.1m</b>	<b>-£36.4m</b>	<b>-£33.8m</b>
<b>Exchequer costs</b> (NPV across 10 year appraisal period, 2019 prices)			
Statutory Maternity Pay cost (discounted by amount covered by business)	£147.2m	£147.2m	£147.2m
<b>Exchequer Benefits</b> (NPV across 10 year appraisal period, 2019 prices)			
Of which no longer paying maternity allowance	£130m	£130m	£130m
Of which savings in costs for ETs and EC	£0m	£0.9m	£1.7m
<b>Total Exchequer benefits</b>	<b>£130m</b>	<b>£130.9m</b>	<b>£131.7m</b>
<b>Net Exchequer Impact</b>			
	<b>-£17.2m</b>	<b>-£16.3m</b>	<b>-£15.5m</b>
<b>Individuals Benefits</b> (NPV across 10 year appraisal period, 2019 prices)			
Of which additional statutory payments <sup>49</sup>	£25m	£25m	£25m
Of which savings in costs for ETs and EC <sup>50</sup>	£0m	£0.9m	£1.7m
<b>Total individual benefits</b>	<b>£25m</b>	<b>£25.9m</b>	<b>£26.7m</b>
<b>Net Individual Impact</b>			
	<b>+£25m</b>	<b>+£25.9m</b>	<b>+£26.7m</b>

### Non-monetised costs and benefits

86. Extending the redundancy protections to cover pregnant women and new mothers will have costs and benefits beyond those estimated in the IA, as some impacts (particularly indirect) are difficult to quantify and relevant data sources are limited.

Costs to businesses associated with retaining pregnant workers or workers returning from maternity leave:

87. Economic theory suggests that when a business makes someone redundant, they do so because the costs of employing them outweigh the benefits. This means that businesses will incur labour costs from retaining pregnant women and/or employees returning from Maternity/Shared Parental/Adoption Leave, who would, in the absence of legislation be made redundant. However, it is difficult to reliably quantify this impact, particularly in marginal redundancy decisions, as it requires a number of theoretical assumptions which go well beyond the available evidence. For example, the following theoretical assumptions have to be considered:
- a. The benefit to the business of keeping someone employed, who would otherwise be made redundant, is less than the cost of employing them (otherwise why select for redundancy) but by how much is uncertain. We have not attempted to estimate this benefit but arguably there is output value which mean the net impacts will be negative but close to zero in marginal redundancy cases.
  - b. The comparative cost of making another employee redundant may be broadly similar in large firms where there is a bigger pool of employees from which to select redundancies, but this may not hold in smaller firms and will depend on the numbers at specific levels/roles.
  - c. What happens at the end of the protection period? Would pregnant women and/or employees returning from leave be made redundant at a later point (after the protection period elapses).
  - d. Any labour costs incurred by business (from keeping employee on) would largely be a transferred benefit to workers in the form of wages but this assumes those workers would not secure alternative employment.
  - e. Assumptions are also required on how business will respond, for example do they make someone else redundant or just absorb the costs.
88. If these marginal costs were included in the NPV calculation, it is possible that the overall NPV could be lower than estimated. However, for reasons outlined above we propose to present these highly uncertain and theoretical costs in Annex B rather than include in the Net Present Value calculations captured on pages 1 and 2.

#### Potential additional costs to other workers, employers and the Exchequer

89. It is possible that an employer could make someone other than a returning parent redundant following policy change (Annex A discusses this scenario in further detail). In this instance there will, of course, be associated costs to those individuals (loss of employment, earnings etc). Where an employer attempts to absorb costs rather than make someone else redundant (cost-offset) it is possible that employee terms and conditions are reduced more broadly to address these pressures. It is not possible to estimate these costs.
90. There may also be costs to employers (if a returning parent employee is less productive than another employee (non-parent) who is now selected for redundancy. The employer may seek to address cost pressures by increasing prices, lowering profits or trying to increase productivity elsewhere.
91. The economy will experience negative impacts associated with other workers being made redundant – loss of productivity, tax revenue and potential increases in welfare benefits.

#### Benefits to pregnant women and mothers returning to work

92. The majority of consultation respondents agreed that the extension of rights would increase protection against discrimination and support women and new parents returning

to work. Greater job security, fair and equal treatment, and dispelling of misconceptions around mothers being unable to work after childbirth were also highlighted by consultation respondents.

93. Career prospects may improve for new parents – average job tenure may increase, labour market attachment supports the development of skills and knowledge, and the likelihood of wage progression increases.
94. New parents are likely to benefit from mental health and wellbeing impacts by remaining in employment. Unemployment is negatively associated with life satisfaction and happiness, evidenced by a large body of empirical research<sup>40</sup>.
95. The analysis does not account for contractual Maternity Pay (termed Occupational Maternity Pay) or contractual Redundancy Pay i.e. where an employer has access to a policy which is more generous than the statutory scheme (an employer may change this policy and apply specific terms and conditions on access to these schemes). In some circumstances an employee may now benefit from a more generous maternity pay package (and the employer would face the associated costs for this) if they would otherwise be made redundant. Similarly, employees may miss out on more generous redundancy pay (and the employer would benefit from no longer having to pay them) as they are no longer selected for redundancy. As such schemes are discretionary and a matter of contractual law, they are outside the scope of this Impact Assessment.

### Employer benefits

96. Positive benefits are likely to flow to businesses driven by having employees who feel accepted in the workplace being more committed to the business. Indeed, 77% of consultation respondents identified benefits to businesses of the policy. It is possible that employees may see a long-term future at the company, contributing to lower labour turnover and the business retaining the knowledge and skills of its workforce. Some employers that responded to the consultation highlighted the mid to long-term benefits of greater employee retention, a more productive workforce and enhanced employer reputation.

### Benefits to wider economy and Exchequer

97. The policy supports broader goals of addressing the gender imbalance in the workplace and female labour market participation. Consultation respondents also highlighted potential benefits from changing workplace culture around redundancy discrimination and increasing employers' awareness of discrimination.
98. Supporting pregnant women and new parents through redundancy protections may confer benefits to the Exchequer if these individuals are able to maintain close attachment to the labour market, in the short and long-term. Increased female labour market retention can lead to increased productivity, economic diversification, and reductions in income inequality<sup>41</sup>.

## **Small and Micro-Business Assessment (SaMBA)**

The consultation captured information on the impact to small business. Some concerns were raised whether small businesses were fully aware of their obligations when it comes

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<sup>40</sup> For example, Blanchflower, D. G., Oswald., A. J. (2004), Well-being over time in Britain and the USA, *Journal of Public Economics*, 88, 1359-1386

<sup>41</sup> International Monetary Fund (2018). *Pursuing Women's Economic Empowerment*.

to pregnancy and maternity discrimination. In response to this and more general advice and guidance issues a taskforce has been established to address concerns.

65% of the consultation respondents did believe the proposal would bring additional costs to business (mostly from employers) in relation to having to familiarise HR and managers with a new approach, re-writing policies and training staff. These costs were considered more challenging for smaller businesses.

Some employers and individuals saw this as a short-term cost which would be mitigated by the later benefits of greater retention and more productive workforce. Others suggested it would make it harder for SMEs to structure their business flexibly and make it more difficult to reduce overheads when required.

Smaller employers will have less discretion in choosing alternative staff for redundancy and retaining other workers which could have an associated cost. However, to meet the policy objective of tackling discrimination in the workplace against pregnant women and new parents, the redundancy protections must apply to all firms irrespective of size. Allowing small businesses to opt out of the policy would undermine the policy objectives, as it would signal that Government condones discrimination against pregnant women and new parents in small firms.

Furthermore, pregnant mothers and new parents in small businesses may be more vulnerable to redundancy discrimination than their counterparts in larger firms. The BIS/EHRC report found that mothers working for small employers<sup>42</sup> were more likely to say that they felt forced to leave their jobs.

As a group, small businesses will not be disproportionately affected by this policy. 29% of all employees work in small and micro businesses<sup>43</sup>, meaning that the majority of employees eligible for redundancy protection work in medium and large businesses.

99. We have, however, considered how reduced discretion in redundancy decisions would affect small and micro businesses. It is likely that small firms are impacted more than larger firms by employee absence, in terms of workload, labour costs of finding a replacement, and internal knowledge and capabilities, for example.

100. Small and micro businesses will avoid the cost of contributions to Statutory Maternity/Paternity/Adoption pay as unlike larger businesses, small and micro businesses receive a monetary benefit for this component as they can recover 103% of statutory payments from Government.

101. Small and micro firms will face familiarisation costs, as summarised on page 17, but we estimate that small and micro businesses will spend less time on familiarisation than larger firms as they have fewer managers/employees to inform and are able to quickly filter information throughout the organisation. More significantly, this policy will be familiar to businesses as the legislation extends existing redundancy protection for mothers. This builds on assumptions evidenced in recent impact assessments<sup>44</sup>.

102. Small and micro businesses may also reap the benefits of retaining staff and supporting pregnant mothers and new parents in the workplace – employee loyalty and

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<sup>42</sup> The report defines small employers as those with under 49 employees.

<sup>43</sup> Business population statistics, 2021

<sup>44</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/871865/carers-leave-consultation-impact-assessment.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/871865/carers-leave-consultation-impact-assessment.pdf) and <https://www.legislation.gov.uk/ukdsi/2020/9780111192238/impacts>

morale, a positive and inclusive workplace culture that is associated with happy and productive employees<sup>45</sup>, and retention of skills and knowledge, for example. As noted in the non-monetised costs and benefits section, consultation responses from some employers highlighted the benefits of greater employee retention, increased productivity of employees and reputation effects.

## Equality Assessment

### Age

103. As a part of the Equality Act 2010, public bodies are expected to account for equality impacts. The Public Sector Equality Duty (PSED), created under the Act, considers the potential effects of intervention on individuals with ‘protected’ characteristics. Specifically, the Public Sector Equality Duty (PSED) sets out to:
- a. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
  - b. Advance equality of opportunity between people who share a protected characteristic and those who do not; and
  - c. Foster good relations between people who share a protected characteristic and those who do not.
104. The PSED covers 9 protected characteristics in total: age, race, gender, disability, religion or belief, sexual orientation, gender reassignment, pregnancy and maternity, marriage and civil partnership.
105. The policy is targeted at pregnant women and returning mothers who are likely to fall in to certain age bands. The table below shows the proportion of maternities split by age bands, with the majority of these occurring in the 25–29 and 30–34 age groups. This suggests that the proposal may benefit some employees in particular.

**Table 7 – Live births by age of mothers, England and Wales (2019) and Scotland (2020)**

Age Band	Live births (2019, 2020)*	Percentage
Under 20	19,001	2.8%
20 to 24	86,756	13.5%
25 to 29	186,502	27.1%
30 to 34	225,620	32.8%
35 to 39	131,388	19.1%
40 and over	29,163	4.6%

### Pregnancy and Maternity

106. This policy has gender implications as it is primarily concerned with providing a sense of security to women before and after their pregnancy in the form of more robust employment protections. As stated previously, the policy aims to reduce the amount of discrimination towards pregnant women and mothers returning to the workplace.

<sup>45</sup> Bellet, C. and De Neve, J. & Ward, George. (2019), *Does Employee Happiness have an Impact on Productivity?*, Said Business School WP 2019-13.

### *Remaining Characteristics*

107. The proposal is designed to have a positive impact on pregnant women and returning parents and therefore will benefit female and male employees falling into these groups. The policy covers those returning from Maternity, Adoption and Shared Parental Leave and therefore provides protection to fathers/partners and individuals in same sex relationships. We do not expect that stronger protections for pregnant women/returning parents to have a disproportionate effect on other groups. However, there may be some small negative impacts on other groups (i.e. those that are made redundant instead of returning parents in the 'substitution' scenario) or other workers if an employer attempts to deal with cost pressures by reducing worker benefits more generally (i.e. in the cost-offset scenario). The policy is unlikely to create barriers to equality in relation to an employee's religion and belief, gender reassignment, sexual orientation, disability and race and their marriage/civil partnership status.

### **Family Test**

108. Section 149 of the Equality Act 2010 requires BEIS to have due regard to promoting equality of opportunity, eliminating discrimination, and fostering good relations between groups. We consider that enhancing redundancy protections to pregnant women and new parents will provide a net benefit to families, through benefits arising from labour market retention.

109. If a pregnant women/new parent avoids redundancy and remains employed, there will likely be positive effects on the individual's happiness and well-being, and on their financial situation. These individuals will also avoid the additional time and mental pressures of finding a new job.

110. Through these channels, we expect beneficial impacts on families. Poor maternal mental health is associated with less engaged parenting<sup>46</sup> and poor child attachment<sup>47</sup>. Continuing to receive wages and contribute to the family financially benefits the family unit in the ability to spend on food, housing, bills, for example. Finding another job as a pregnant women or new parent would likely be highly stressful, time intensive and potentially damaging to morale and mental health. A parent in this state would likely have negative impacts on the family unit.

111. For these reasons, we expect the policy to be beneficial to families who are going through key transitions such as getting married, fostering/adoption, bereavement, redundancy, onset of long-term health condition, and (most significantly) becoming parents. For families experiencing couple separation, or at risk of deterioration of relationship quality and breakdown, we expect the policy to have a substantial positive effect due to the financial pressures of going through a separation and being a single parent.

### **Competition Assessment**

112. The option under discussion would apply to all employers and is unlikely to adversely affect the competitiveness of any particular sector given the relatively small number of businesses that will be affected. The policies are not expected to affect market structure, the ability of new firms to enter markets, or firm's production decisions.

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<sup>46</sup> Lovejoy, MC., Graczyk, PA., O'Hare, E. & Neuman, G. (2000), *Maternal depression and parenting behaviour: a meta analytic review*. Clinical Psychological Review, 20(5):561-92.

<sup>47</sup> Martins, C. & Gaffan, EA. (2000), *Effects of early maternal depression on patterns of infant-mother attachment: a meta-analytic investigation*. Journal of Psychology Psychiatry, 41(6):737-46.



113. Using the competition filter test, we find there is no need to conduct a detailed assessment of the impact of the proposals on competition. We do not expect the market share for products and services provided by either the private or public sector to be affected by the proposed policy. The changes would apply to all sectors of the economy and given the small number of cases of pregnancy/maternity redundancy; the likelihood any given employer is expected to be low.

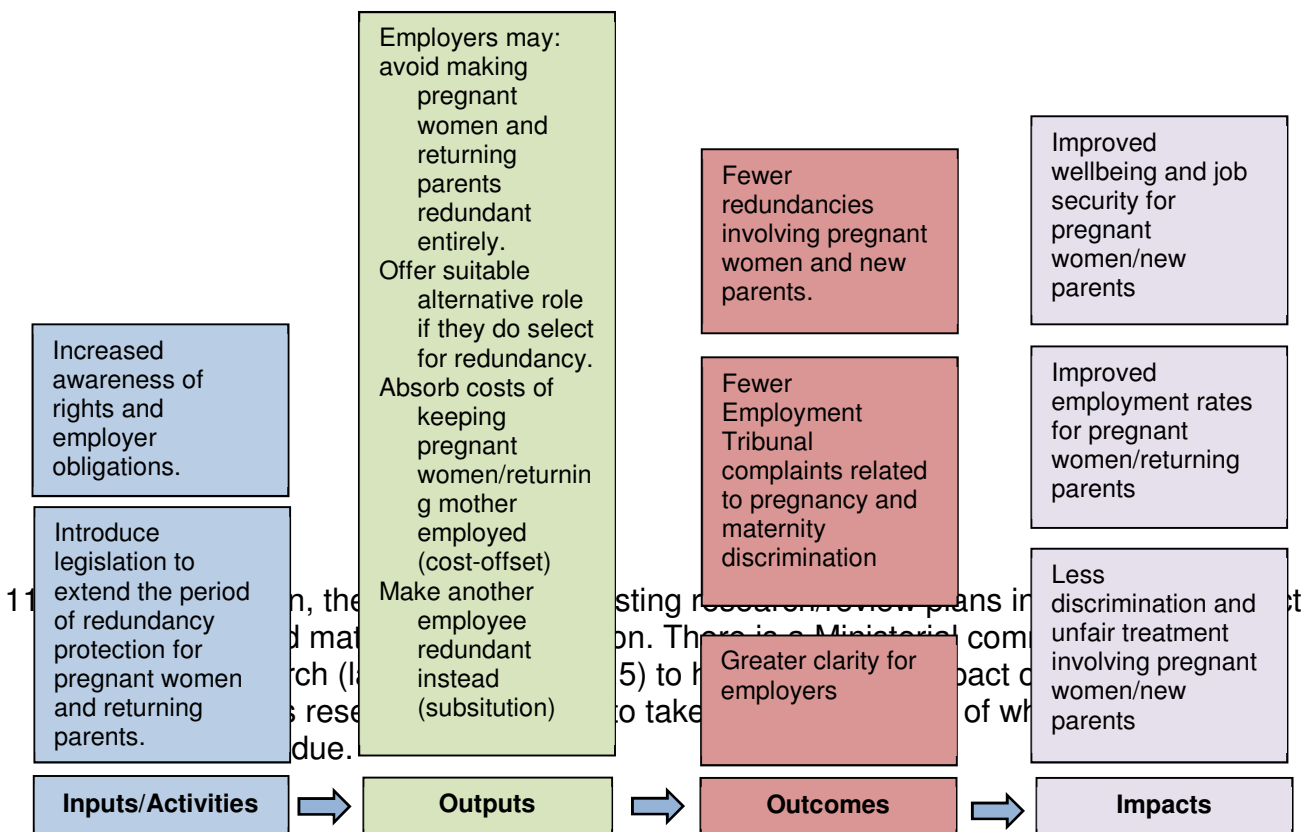
## Monitoring and Evaluation

114. We will take a proportionate approach to undertaking a non-statutory Post Implementation Review (PIR) of this legislation in a period, no earlier, than 5 years following its introduction. This reflects the fact that the policy changes proposed simply extend existing legislation on the length of redundancy protection, which will be achieved through affirmative Statutory Instruments, rather than introduce any new legislation (beyond giving the Minister power to make changes in secondary legislation).

115. The non-statutory PIR will seek to assess the following evaluation questions:

- a) What is the scale of pregnancy and maternity discrimination (including redundancies) and, where possible, what extent have enhanced redundancy protections reduced the incidences of discrimination and redundancy.
- b) What is the level of awareness of rights in relation to pregnancy and maternity discrimination and how to exercise them among individuals,
- c) What is the level of business awareness of their obligations and whether this leads to a reduction in discriminatory behaviour.

116. The Theory of Change below demonstrates how the extension of redundancy protection will lead to improved employment rates and reduced discrimination/redundancy issues for pregnant women and new mothers. This is the broad causal basis on which we will evaluate the impact and success of the policy.



118. The Government has already accepted the WESC and EHRC recommendation to monitor mothers' experience of their treatment in the workplace. A review of the policy will be conducted once sufficient time has elapsed for affected parties to respond to the extension of redundancy protections and for the effects of the policy to bite.
119. The Government has committed to seeking to undertake research into pregnancy and maternity-related discrimination and disadvantage among mothers and employers in Great Britain following the detailed BIS/EHRC research in 2014-15. The new research will support evaluation of the policy and the scale of discrimination faced by pregnant women and new parents.
120. The research will seek to provide an understanding of:
- The incidence and types of pregnancy and maternity-related discrimination and disadvantage in Great Britain;
  - Awareness of maternity rights, advice, support and employer responsibilities related to pregnancy, during maternity leave and on return to work among mothers and employers;
  - Employer attitudes and workplace practice in relation to women who are pregnant, on maternity leave and on return to work.
121. The Government will continue to monitor evidence of pregnancy and maternity-related discrimination and disadvantage among mothers and employers in Great Britain using quarterly Employment Tribunal (ET) statistics which estimate the number of ET complaints and disposals received under the 'Sex Discrimination' and 'Suffer a detriment and/or dismissal on grounds of pregnancy, child birth or maternity' jurisdictions, over time. This data provides a high-level picture of complaints that result in Employment Tribunals but does not capture all instances of pregnancy and maternity discrimination.
122. We are exploring the potential of using HMRC administrative PAYE data to identify employees in receipt of Statutory Maternity Pay and the rate in which they change jobs or leave the labour market entirely in comparison to other employees. This could provide a high-level picture of how mothers are faring in the labour market.
123. We recently undertook a large parental rights survey in 2018/19 (part of a series dating back to the 1970s) and some of the evidence on unfair treatment at work has informed the policy development. We do not currently have a confirmed timetable to repeat this survey, however it typically operates in 5-10 year cycles. A future parents survey will take the opportunity to collect new data on whether individuals experienced unfair treatment, discrimination, and redundancy situation.
124. Finally, the Government will continue to engage stakeholders to understand the impact of this legislation. Employer and groups representing parents can provide a valuable source of information in relation to awareness, complexity, attitudes, and impact. In particular, we will be better able to test the scale of transitional and annual costs that business face. Discussions with stakeholders informed the assumptions underpinning these costs in this impact assessment, and further engagement post-implementation is the most accurate way to monitor and evaluate this impact.

## Annex A – Scenarios for sensitivity analysis

125. To model additional illustrative costs and benefits (see Annex B), we firstly consider two scenarios. This section outlines these scenarios.
126. We assume that there are two scenarios of how employers currently behave when making a redundancy decision and how they might behave in response to the proposed reforms.
127. Management decisions will depend on the reason for redundancy, environmental factors such as firm size and sector, internal factors such as existing costs, and the skills and value of the protected individual returning to work. In conducting sensitivity analysis, we make assumptions on the proportion of firms falling under the two scenarios.
- a) **Scenario 1 (Substitution)** describes employers who, before the introduction of enhanced protections, would have made a pregnant women/parent returning from leave redundant. These employers now make another member of staff redundant instead.
- b) **Scenario 2 (Cost – offset)** describes employers who, before the introduction of enhanced protections, would have made a pregnant women/parent returning from leave redundant. In this scenario, the employer decides to keep the worker.

Under scenario 1, in the counterfactual the employer would have made another employee redundant. This assumes that the protected individual has comparable value and skills to the other employee. This assumption will not hold for all firms, but a proportion of firms will fall under scenario 1. This assumption is more likely to hold for large employers, as they have a larger pool of candidates to select from. In these instances, the employer will be incentivised to find someone similarly skilled to the protected individual in order to minimise costs to the business.

128. A small employer will have less discretion in choosing alternative staff for redundancy, so fewer small firms are likely to fall under scenario 1. If there are significant differences in skills, the employer may respond by not making another individual redundant. This behaviour is consistent with scenario 2.
129. To evidence our assumptions on firms' behavioural responses we draw on data from the Workplace Employment Relations Survey (WERS)<sup>48</sup>. For those employers who had to make redundancies in the last 12 months, workplace managers were asked the main reason for redundancy. The table below provides the main reason for redundancy for the last two waves of WERS.

Main Reason	2004	2011
Lack of demand for products/services	24%	28%
Shortage of materials	1%	0%
Automation/mechanisation/new equipment	3%	2%
Reorganised working methods	36%	32%
Improved competitiveness/efficiency/cost reduction	12%	9%
Merger with another establishment or organisation	3%	2%
Industrial disputes	0%	0%
Reductions in budget/cash limits	8%	18%
Some other reason (please specify)	13%	9%

<sup>48</sup><http://nesstar.ukdataservice.ac.uk/webview/index.jsp?v=2&mode=documentation&submode=abstract&study=http://nesstar.ukdataservice.ac.uk:k:80/obj/fStudy/7226&top=yes>

130. The WERS data suggests that firms face several different contexts which could lead to redundancy and occur over different timeframes. Some are short-term redundancies due to a lack of demand or financial constraints. Others relate to strategic decisions, for example, re-structuring.
131. We assume that firms under scenario 1 make redundancies due to short term pressures, and so would make another individual redundant. We estimate the proportion of these businesses by defining short-term reasons as: lack of demand for products/services, improved competitiveness/efficiency/cost reduction, and reductions in budget/cash limits. Using 2011 data, 55% of firms cite short-term redundancy reasons.
132. The 2011 survey results may have been affected by the 2008 financial crisis, after which redundancies were made across the economy. A larger percentage of firms may have cited lack of demand as a main reason for redundancies than those would in the current environment. To avoid over estimating the percentage of firms following scenario 1, we consider the 2004 data, where 44% of firms cite short-term factors. For the central scenario we take the approximate midpoint and assume 50% of firms will follow scenario 1. The remaining 50% of firms fall under scenario 2.
133. The percentage of firms citing short-term reasons for redundancy may be larger, as these reasons are likely to be cited by the smallest firms with fewer than 5 employees. These firms are not covered by WERS. The WERS survey results are based on a stratified random sample from the Inter Departmental Business Register (IDBR), with the overall sample being representative of workplaces with at least 5 employees. Small firms are more vulnerable to scenarios such as lack of demand for products/services, for example, and are likely to respond with redundancies. The current sensitivity modelling may, therefore, be conservative in estimating the impacts on businesses.

**Table 8 – Scenario Modelling**

<b>Estimate</b>	<b>Scenario 1: Substitution</b>	<b>Scenario 2: Cost – offset</b>
	% of businesses	% of businesses
Low	100%	0%
Central	50%	50%
High	0%	100%

134. As the proposals extend existing protections, we do not expect the policy to create additional perverse incentives for firms at recruitment stage. Any disincentives at recruitment stage are likely to exist for all women of child-bearing age. In addition, under the policy proposal, the protected parent will notify their employer during pregnancy, not at recruitment stage.

## **Annex B - Illustrative impacts**

In this section we set out some potential costs that are based on more theoretical and implicit assumptions. These are included for illustrative purposes as the impacts are complex and highly uncertain and therefore are not included in the main economic assessment. These illustrative costs should be considered alongside monetised costs and benefits included in the main NPV assessment. Illustrative costs are based on scenarios outlined in Annex A.

These illustrative costs and their relation to scenarios are summarised in table 9. For our best estimate we assume 50% of businesses fall under Scenario 1 and 50% fall under Scenario 2. The low estimates assume all businesses fall under Scenario 1 and high estimates assume all businesses fall under Scenario 2.

**Table 9 – Summary illustrative costs and benefits (in addition to monetised costs and benefits outlined in main IA)**

<b>Scenario Description</b>		
	<b>Scenario 1: Substitution</b>	<b>Scenario 2: Cost – offset</b>
<b>Counterfactual: Without enhanced redundancy protection (Before)</b>	Parent is made redundant	Parent is made redundant
<b>Factual: With enhanced redundancy protection (After)</b>	Parent is kept on AND Another member of staff is made redundant instead	Parent is kept on (costs are absorbed)
<b>Costs</b>		
<b>Recurring business costs</b>		Labour costs of keeping the parent for the period of protection (pregnant and returning parents)
<b>Benefits</b>		
<b>Recurring benefits to business</b>		Benefits of not having to pay Statutory Redundancy Pay (pregnant and returning parents)
		Output benefit of keeping the parent for the period of protection (pregnant and returning parents) – this will presumably be

		lower than the cost of employing the worker.
<b>Recurring benefits to individuals</b>		Wages less Statutory Redundancy Pay (pregnant and returning parents)

## **Costs**

### **Business costs: Labour costs of keeping the parent for the period of protection (pregnant and returning parents)**

135. Some businesses, depending on their behaviour before and after the policy being implemented, will incur a labour cost from retaining pregnant staff or staff returning from maternity/shared parental/adoption leave that would otherwise have been made redundant. These costs are dependent on a) the point at which pregnant women are made redundant; and b) the duration of the protection for returning parents.

136. As outlined under Option 3 the policy will provide returning parents with an 18-month blanket period of protection for eligible new parents (starting from child's birth). Under MAPLE, parents are already protected against redundancy whilst on Maternity/Adoption/Shared Parental Leave. To calculate the additional labour cost to business of the policy, we estimate the labour costs across the remaining protection period. The length of additional protection for parents returning from maternity and adoption leave is 9 months, based on 9 months as the average duration of leave taken. The length of additional protection for SPL partners is 15.7 months, based on 10 weeks as the average duration of SPL taken (see paragraph 160). We assume that employers previously would have made returning parents redundant upon their return to work.

137. For pregnant mothers, we assume they were made redundant after they formally tell their employer in writing they are pregnant (typically 20 weeks before the due date). Therefore, after the policy is implemented this results in an additional 20 weeks of labour costs for affected employers.

138. We estimate the labour costs to business as the costs of paying eligible returning parents' wages across the redundancy protection period. We calculate a weighted median weekly wage for women and men using ASHE 2021 data and weight this by the age of mothers and fathers for live births across Great Britain in 2019/20, yielding an estimate of £424.21 for the weekly wage costs for women, and £437.50 for men. This approach is shown in Table 10 for female wages. An adjustment factor<sup>49</sup> is also applied to reflect non-wage costs incurred by business. Wage costs are taken from ASHE 2021 provisional data<sup>50</sup>. The same approach is taken for male wages.

**Table 10 – Calculating Median weekly Wages for pregnant women/new mothers**

<sup>49</sup> Non -wage costs (20.6% ) Eurostat, April 2018

<sup>50</sup> <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/agegroupashetable6>

Age group	Employees (000s)	Median Weekly Pay (£) <sup>51</sup>	Weighted Weekly median Pay (£)	% Live Births (GB) by age of Mother <sup>52</sup>
16-17	124	71.5	370.7	43.4%
18-21	611	185.3		
22-29	2,239	437.9		
30-39	3,124	470.2	470.2	52.0%
40-49	3,148	455.1	409.9	4.6%
50-59	3,057	408.7		
60+	1,258	299.5		

139. We calculate the weighted median wage for three broad age bands, as data on mother's age at birth is separated according to these age bands. ASHE data on median weekly pay and number of employees is used for these calculations. This approach is set out in the box below for females aged 16–29 as an example.

<p>Weighted weekly median wage (age group) = (No. Employees x Median weekly pay) ÷ Total No. Employees</p> <p>Weighted weekly median wage (16 - 29) = [(No. Employees (16 -17) x Median weekly pay (16 -17)) + (No. Employees (18 - 21) x Median weekly pay (18 - 21)) + (No. Employees (22 - 29) x Median weekly pay (22 -29))] ÷ (No. Employees (16 - 17) + No. Employees (18 – 21) + No. Employees (22 – 29))</p> <p>= (124 x 71.50) + (611 x 185.30) + (2,239 x 437.90) / (124 + 611 + 2,239) = £370.70</p> <p>When continued to cover 30 to 60+ age group.</p> <p>Weighted weekly median wage (new and expectant mothers) = (Weekly median pay x % live births by age of mother</p> <p>= (£370.70 x 43.4%) + (£470.20 x 52.0%) + (£409.90 x 4.6%) = £424.21</p>
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140. Table 11 sets out the calculations for labour costs for the central estimate, where 50% of companies fall into scenario 2.

141. For the pregnant women otherwise made redundant, we estimate the labour costs for the 20 weeks before maternity leave and 39 weeks after the end of maternity leave. For new mothers and adoptive parents returning to work, we follow a similar approach but only estimate labour costs for nine months of protection after they return from maternity/adoption leave. For partners returning from SPL, we estimate the labour costs for 15.7 months of redundancy protection. Wages are uplifted to account for the time away from work. Following the approach set out in Table 10 for each group of parents, **we estimate illustrative labour costs to employers of keeping mother employed at £89.5m per year. In our low-cost estimate (where all business fall under Scenario 1), businesses do not incur any labour costs and in our high cost estimate (where all businesses fall under Scenario 2) labour costs are £178.9m per year.**

**Table 11 – Illustrative labour costs for pregnant women and mothers returning to work (best estimate)**

<sup>51</sup> ASHE 2021

<sup>52</sup> ONS and NRS data on live births (2019, 2020)

	<b>Pregnant women</b>	<b>Mothers returning to work</b>
Population size	2,500	5,000
% of businesses falling into scenario 2	50%	50%
Adjusted population <sup>53</sup>	<b>1,200</b>	<b>2,500</b>
Unit labour costs (before Maternity leave)	£516.67	
Total labour costs (before Maternity leave) – 20 weeks	£12.8m	
Unit labour costs (upon return to work) <sup>54</sup>	£529.31	£529.31
Total labour costs (upon return to work) – 39 weeks	£25.6m	£51.1m
<b>Total Labour costs</b>	<b>£38.4m</b>	<b>£51.1m</b>

## **Benefits**

### **Business Benefits: Savings from not having to pay Statutory Redundancy Pay**

142. Savings from not paying Statutory Redundancy Pay are discussed here as illustrative impacts but are not captured in the main economic assessment as it remains unclear whether the employee will be made redundant after the end of the protection period. If an employee is made redundant after the protection period we simply delay, rather than avoid, impact.
143. Under scenario 2, following the introduction of the policy, businesses will benefit from no longer paying Statutory Redundancy Pay to pregnant women and parents returning to work. Under scenario 1, those businesses who would have made someone else redundant still face these payments and thus will not experience these savings.
144. Since these benefits only materialise in scenario 2, we apply a factor of 50% to the population eligible for Statutory Redundancy Pay for our best estimate. Statutory Redundancy Pay depends on length of service and the age of the employee during service. Employees are also required to have worked for at least two years with their current employer to receive the entitlement.
145. Since some of the information used is not in the public domain, we cannot provide a full derivation of the population figures, but instead describe the broad approach. We have analysed LFS micro data to calculate the average number of years served for employees aged 21 or under, 22 – 40 and 41+<sup>55</sup> to mirror the age bands upon which redundancy pay rates are based<sup>56</sup>. Calculation of Statutory Redundancy Pay can be found in the tables below for pregnant women and returning mothers.

<sup>53</sup> Apply 50% factor to populations to account for businesses pursuing cost-offset strategy.

<sup>54</sup> Labour costs uplifted for period upon return to work, reflecting percentage change in wages over time (ASHE 2021)

<sup>55</sup> Current redundancy pay rates are based on the age of the recipient. The relevant age ranges that receive different amounts of redundancy pay are: under 22, 22-40 and 41 and older. <https://www.gov.uk/redundant-your-rights/redundancy-pay>

<sup>56</sup> <https://www.gov.uk/redundant-your-rights/redundancy-pay>



146. The approach to calculating Statutory Redundancy Pay is cautiously an upper bound estimate as it is based on simple averages whereas, in practice, the calculation of Statutory Redundancy Pay will account for the number of years' service at each age band and capped amounts relating to length of service, weekly and total pay amounts.

Redundancy pay per year of service age 41 and more = 1.5 weeks of pay x average no. years of service age 41 and more

Redundancy pay per year of service age 22 – 40 = 1 weeks of pay x average no. years of service age 22 – 40

Redundancy pay per year of service age less than 22 = 1/2 weeks of pay x average no. years of service age less than 22

**Table 12: Statutory Redundancy Pay previously paid to pregnant women (high cost scenario)**

Age group	Population <sup>57</sup>	Average Statutory Redundancy Pay per employee per year <sup>58</sup>	Average no. of years of service <sup>59</sup>	Total Cost
Proportion of mothers aged 41+	100	£640	10	£0.6m
Proportion of mothers aged 22-40	1,700	£420	5	£3.8m
Proportion of mothers aged under 22	300	£210	2	£0.1m
Total (high cost scenario)				£4.6m
<b>Total (central scenario adjustment)</b>				<b>£2.3m</b>

\*Figures may not total due to rounding.

**Table 13: Statutory Redundancy Pay previously paid to returning mothers (high cost scenario)**

<sup>57</sup> The population of parents by age is based on Live Births in England and Wales - <https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/livebirths/datasets/birthsbyparentscharacteristics> and National Records of Scotland - <https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/vital-events/general-publications/vital-events-reference-tables/2020/list-of-data-tables#section3>,

<sup>58</sup> Internal BEIS analysis of the Annual Survey of Hours and Earnings data based on the median weekly earnings for men/women aged 16+.

<sup>59</sup> Internal BEIS analysis of LFS microdate.

Age group	Population	Average Statutory Redundancy Pay per employee per year	Average no. of years service	Total Cost
Proportion of mothers aged 41+	200	£640	10	£1.2m
Proportion of mothers aged 22-40	3,400	£420	5	£7.7m
Proportion of mothers aged under 22	700	£210	2	£0.3m
Total				£9.2m
<b>Total (central scenario adjustment)</b>				<b>£4.6m</b>

\*Figures may not total due to rounding.

147. The estimated savings on Statutory Redundancy Pay depends on what proportion of businesses we assume fall into each of the scenarios set out above. If all businesses behave as in Scenario 1 there are no savings on Statutory Redundancy Pay, as businesses will have to pay these out to the staff members who they lay off instead of pregnant women/returning parents. **In the high cost estimate, where all businesses previously made pregnant women/returning parents redundant, we estimate annual savings of £14.0m. In our best estimate, we estimate illustrative annual savings on Statutory Redundancy Pay of £7.0m<sup>60</sup>.**

Business Benefits: Output benefit of keeping the parent for the period of protection (pregnant and returning parents) – this will presumably be lower than the cost of employing the worker

As discussed in the non-monetised costs and benefits section, there will be some output benefit associated with retaining pregnant women and/or employees returning from Maternity/Shared Parental/Adoption Leave, who would, in the absence of legislation be made redundant. However we assume that the benefit to the business of keeping someone employed, who would otherwise be made redundant, is less than the cost of employing them. We have not attempted to estimate this benefit as it requires a number of theoretical assumptions which go well beyond the available evidence, but arguably there is output value which mean the net impacts will be negative but close to zero in marginal redundancy cases.

Individual Benefits: Wages received from employers less Statutory Redundancy Pay

148. Extending the MAPLE protections into the return to work period means pregnant mothers will benefit from continuing to receive a salary before going on leave and during the redundancy protection period. Parents returning from Maternity Leave, Adoption Leave and Shared Parental Leave will also benefit from continuing to receive a salary

<sup>60</sup> Aggregating figures across tables 12 and 13 may give slightly different figure due to rounding

during the redundancy protection period. The salary payments represent a direct transfer from businesses to individuals. We do not include a wage uplift in calculating the salary benefits, as non-wage costs are incurred by employers.

149. The policy involves an 18-month window of redundancy protection for eligible parents, but under MAPLE parents are already protected against redundancy whilst on maternity/adoption/shared parental leave. To estimate the additional salary benefit over the remaining protection period, we estimate the duration of maternity, adoption and shared parental leave taken. We estimate the length of maternity and adoption leave taken at 9 months, based on evidence from the Parental Rights Survey (2018) on the average number of weeks of maternity leave taken. We estimate the length of SPL taken at 10 weeks, based on MWPS evidence on the average duration of SPL taken by men.
150. For pregnant women now protected from redundancy the salary benefits are calculated for the 20 weeks before they go on maternity leave and the nine months upon return to work. For other parents we estimate the salary benefits across the estimated period of protection. The median weekly earnings for males and females aged over 16, excluding overtime, are applied to the relevant eligible populations to estimate the total salary benefits.
151. The source of salary data used throughout the IA is the Annual Survey of Hours and Earnings (ASHE) 2021. We calculate a weighted median weekly wage for women and men, weighted by the age of mothers and fathers for live births across Great Britain in 2019/20. The earnings estimates are used to estimate the individual benefits of wages over the redundancy protection period. Wages are uplifted to adjust for non-wage costs incurred by businesses, based on Eurostat data.
152. Since businesses no longer have to pay out Statutory Redundancy Pay to individuals in scenario 2, these benefits no longer flow to individuals. We **estimate the total benefits of wages less Statutory Redundancy Pay between £0m and £133m with a best estimate of £66m per year (for pregnant women and parents returning from maternity/adoption/shared parental leave)**. The box below illustrates how we have estimated this for the central case scenario (50:50) for pregnant women and mothers. Calculations for SPL partners and adoptive parents have been suppressed given the low estimates of individuals eligible, and in the interests of proportionality.

### **Payments to pregnant women**

Eligible population = Population size x % employees falling into scenario 2  
= 2,500 x 50% = 1,200

Total wages received before maternity leave (20 weeks) = Eligible population x Median Wages x 20  
= 1,200 x £424.21 x 20 = £10.5m

Total wages upon return to work (39 weeks) = Eligible population x Median Wages x 39  
= 1,200 x £424.21 x 39 = £20.8m

Total payments received (less redundancy payments) = £10.5m + £20.8m - £2.3m\* = **£29.0m**

### **Payments to returning mothers**

Eligible population = Population size x % employees falling into scenario 2  
= 5,000 x 50% = 2,500

Total wages upon return to work (39 weeks) = Eligible population x Median Wages (including 9 month uplift\*) x 39  
= 2,500 x £434.59 x 39 = £41.6m

Total payments received (less redundancy payments) = £41.6m - £4.6m\*\* = **£37.1m**

*Population figures rounded to nearest 100 and payments rounded to nearest £0.1m*

*\*9 month wage uplift for females calculated as 102.4%*

*\*\*Redundancy payment calculations from table 12 and 13*

## Annex C - Modelling risks and assumptions

### Modelling risks and assumptions

153. The costings and analysis in this final stage impact assessment are based on several key assumptions, in estimating the eligible populations and predicting firms' behavioural responses. There is inherent uncertainty in making these assumptions, but we have attempted to model the costs and benefits to the best of our ability using evidence available to us.
154. In the assessment of the options, we try to allow for this uncertainty by providing low, medium and high cost estimates where appropriate.
155. Since we are unable to observe when pregnancy discrimination occurs, we made assumptions on this point in time in absence of the policy. Given lack of evidence, we take a cautious approach and assume for pregnant women, discrimination occurs at the point at which they inform their employer in writing of their pregnancy (the Mat B1 form should be issued no more than 20 weeks before the expected week of confinement<sup>61</sup>). For returning mothers/parents we assume discrimination occurs at the point at which they return to work.

Assumptions Log		
Assumption	Detail	Discussion
Employers' behavioural response in the counterfactual scenario	We assume that in the counterfactual, employers make pregnant women redundant when they inform the employer of their pregnancy. We also assume that employers make returning parents redundant upon their return from maternity/adoption/shared parental.	The topic nature means there is an absence of reliable information on when redundancies for returning mothers takes place. This takes a maximalist approach to capture the earliest a redundancy might occur.
Exclude new and expectant mothers in businesses with only one employee.	Business Population Estimates for 2021 estimate that 0.6% employees are employed in private sector businesses with 1 employee.  We assume that firms of this size will genuinely require a redundancy and have no other staff who can be made redundant instead and therefore can justify their redundancy decision.	This is a reasonable and well-informed assumption based on robust survey data.
Redundancy rate	We assume that the BIS/EHRC research from 14/15 remains an appropriate source of evidence on the proportion of pregnant women and mothers returning	There hasn't been large scale research on pregnancy and maternity discrimination since 2014/15. More recent stakeholder evidence (collected as part of the consultation) supports the view that

<sup>61</sup> <https://www.gov.uk/government/publications/maternity-certificate-mat-b1-guidance-for-health-professionals/maternity-certificate-form-mat-b1-guidance-on-completion>

	<p>from maternity leave who are made redundant, and the percentage of women who are made involuntarily redundant.</p> <p>Of mothers who were employees/workers and took Maternity/Adoption Leave, 1 per cent reported being dismissed, and the same proportion reported being selected for redundancy because of the pregnancy.</p>	<p>the general issue of discrimination/unfair treatment remains.</p> <p>The Parental Rights Survey 2018/19 estimates 30 per cent mothers who took Maternity or Adoption Leave and were in work when their child was born/adopted reported that they had experienced at least one form of unfair treatment during pregnancy, parental leave or on their return to work.</p>
Relative value of employees	We make the implicit assumption that the productivity, redundancy costs and overall value of a parent compared to the member of staff to be made redundant instead are broadly equal (as perceived at least by the employer).	Given the scenario where an employer wants to make a parent redundant and is forced to select another employee - the costs could be seen as higher than benefits (i.e. business are rational). For simplicity, we have not included this impact, as most of these costs could be offset where redundancy decisions are marginal.
Percentage of firms offering alternative positions at lower levels	Assume that the percentage of businesses offering alternative positions at a lower level (73%) remains the same as estimated in the 2014/15 research.	Under MAPLE, it is already unlawful to fail to offer a suitable alternative vacancy. There is little evidence available of how improved advice and guidance may have improved employer behaviour since the previous research so the 73% assumption remains the best available evidence and can be viewed as capturing the upper range of costs.
Admin costs for a redundancy decision	Assume no new costs. The administrative costs from collecting evidence for a redundancy decision already occur in the counterfactual scenario.	Reasonable assumption given the regulatory change will extend existing protection.
Substitution scenario (Annex 1, 2)	Assumes the protected individual has comparable value and skills to the other employee. This assumption will not hold for all firms.	<p>This assumption is more likely to hold in larger employers, as they have a bigger pool of candidates to select from. In these instances, the employer will be incentivised to find someone similarly skilled to the protected individual in order to minimise costs to the business.</p> <p>Firms under scenario 1 make redundancies due to short term pressures, and so would make another individual redundant. We estimate the proportion of these businesses by</p>

		defining short-term reasons as: lack of demand for products/services, improved competitiveness/efficiency/cost reduction, and reductions in budget/cash limits based on 2011 and 2004 Workplace Employee Relations data, which shows 55% and 44% of firms cite short-term redundancy reasons.
Cost-offset scenario (Annex 1,2)	Assumes that firms will not identify an alternative employee for redundancy.  Given the WERS evidence above we assume 50% fall into this scenario.	Small employer will have less discretion in choosing alternative staff for redundancy, so fewer small firms are likely to fall under scenario 1. If there are significant differences in skills, the employer may respond by not making another individual redundant.
Parents returning from shared parental and adoption leave.	We assume that the proportion of SPL partners made redundant on return from SPL and Adoption Leave is the same (2%) as used for mothers.  We also apply the same assumptions on the proportion of mothers made redundant on return from maternity leave and the proportion of mothers made redundant where no alternative/lower level position was offered to this group.	Adoption Leave is essentially the same as Maternity Leave in terms of length and wage replacement, so employers are likely to weigh the cost of Adoption Leave the same as Maternity Leave. Shared Parental Leave is often taken for shorter periods and as its relatively new employers may not view the cost implications as the same as Maternity/Adoption. Despite, this we have taken a maximalist approach to ensure the costs are not underestimated.
Adoption Leave take-up	Cautiously assumed to be 100%.	We have taken a maximalist approach to ensure the costs are not underestimated and survey evidence suggests the vast majority of mothers who are eligible take Maternity Leave (it is reasonable to assume this holds for Adoption Leave).
Shared Parental Leave eligibility/take-up	This analysis assumes that the population eligible for SPL is 285,000 and the take-up is around 4%. This is based on analysis undertaken in the published SPL Impact Assessment and findings from surveys on take-up.	This is a reasonable and informed assumption. We will be publishing supporting evidence in due course.
Employment Rate	Assumption that the employment rate for females aged 46-49 is similar to that of females aged 35-45.	This assumption is reasonable as those aged 46-49 will not have reached the State Pension age (65 for women) yet, and published ONS 2022 data <sup>62</sup>

<sup>62</sup> <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/timeseries/i64p/lms>

		estimates the employment rate of women aged 25-54 was 80% in 2021, which is close to the rate for women aged 35-49.
Employment Tribunal costs	Assumptions related to the cost of Employment Tribunal cases; HR time (in days), cost of advice and representation come from SETA 2018.	This follows methodology used in other labour market Impact Assessments.