



Royal College
of Midwives

breastfeeding at work:

understanding your rights

Breastfeeding at work: understanding your rights

The RCM has developed this resource to support breastfeeding in the workplace. It can be used by members who may wish to continue breastfeeding on return to work and understand their rights.

It should also enable members to have a good understanding the employment rights of women in their care, who may feel returning to work would be a barrier to breastfeeding or feel they need to give up in advance of the end of maternity leave.

World Health Organization (WHO) recommendations

WHO recommends exclusive breastfeeding for the first six months of a baby's life. Complementary foods can be introduced into the infant's diet from six months of age alongside continued breastfeeding (or infant formula if the mother chooses) so it is likely that mothers will return to work while still breastfeeding.

Background

Barriers to breastfeeding at work persist, with workers being told to use toilets to express or feed due to a lack of purpose-built facilities.

RCM members often face problems themselves when returning to work. Because there is often little time to express and nowhere to store milk safely, that members have reported giving up breastfeeding, with associated feelings of stress, anxiety and guilt. There can be implications for the retention of valuable staff, as some mothers may delay or decide not to return to work all together.

In 2013 Parliament failed to adopt proposed legislation making breastfeeding/expressing breaks in the workplace a statutory requirement, a campaign backed by the RCM.

The ACAS guidance for employers was proposed instead with an advisory panel of breastfeeding organisations including La Leche League GB and Maternity Action, which provided evidence-based information about

how milk supply works, along with the practicalities of what women need for breastfeeding breaks.

In 2014 ACAS published the guidance setting out what is required of employers by law, managing workplace issues and providing support to employees returning to work following maternity leave.

ACAS guidance can be found here: <https://www.acas.org.uk/accommodating-breastfeeding-employees-in-the-workplace>

The RCM says that accommodating breastfeeding employees in the workplace is long overdue for a review and is requesting ACAS update this publication to include all the latest evidence, legislation, and changes in workplace practices, such the strengthened rights to flexible working and increased remote working.

The RCM continues to raise awareness and calls for extended legal protection or breastfeeding mothers.

What the RCM is doing

In 2023, the RCM incorporated the call for strengthening of breastfeeding facilities and workers' rights on return to work as a key commitment within the Caring for You campaign and Charter.

This calls for all NHS employers to improve facilities, support and break times available for their breastfeeding employees to set a gold standard example to all employers.

In 2024, the RCM will be making support for breastfeeding workers one of the main priority campaigns within Caring for You. Issues should be raised at national, regional, and local level, with lobbying of policy makers to bring about appropriate changes to legislation.

The RCM will also develop further resources for work representatives and members and will include the issues on the agenda of the National Health Safety and Wellbeing group (subgroup of NHS Staff Council).

What the law says

The RCM does not believe the law offers sufficient protection or support for breastfeeding employees. It would like to see provision extended and strengthened and will work with policymakers to bring about the necessary changes.

If a woman is still breastfeeding when she returns to work, she should inform her employer/line manager. There is no legal right to time off to breastfeed or to provide facilities for expressing and storing milk. However, if an employer refuses to meet the needs of a breastfeeding mother, she should speak to her union representative or access legal advice, as she may be able to make a claim for sexual discrimination.

Health and safety legislation requires the employer to provide suitable rest facilities and ensure that she and her baby are not exposed to risks in the workplace.

Workplace safety law

The Management Regulations the Management of Health and Safety at Work Regulations 1999 (MHSWR) implement the health and safety requirements of the Pregnant Workers Directive (92/85/EEC) into UK law.

The specific health and safety requirements relating to pregnant workers and new mothers are contained in Regulations 16 to 18.

- Regulation 16 requires employers to manage the risks to women of a childbearing age, pregnant workers, and new mothers.
- Regulation 17 covers advice from a doctor or midwife if night work will affect the health of pregnant workers and new mothers.
- Regulation 18 explains employers' duties once notified a worker is pregnant, has given birth in the last six months or is breastfeeding. Section 67 of the Employment Rights Act 1996 states that suitable alternative work should be offered,

if available, on the same terms and conditions, before suspension from work is considered.

- Workplace (Health Safety and Welfare) Regulations Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992 states that employers must provide a suitable place for pregnant and breastfeeding workers to rest.

Equality Act 2010

The Equality Act 2010 makes it unlawful to dismiss or discriminate against a worker because they are pregnant, a new mother or are breastfeeding. Breaches of health and safety law may also be discrimination under the Act, depending on the circumstances. The Act requires no length of service qualification and gives protective rights to a broad range of workers, including contract, agency, and apprentice workers. A breach of the Act could lead to civil liability. <https://www.hse.gov.uk/mothers/employer/workplace-safety-law.htm>

As well as health and safety

Risk assessment

An employer should undertake an individual risk assessment for all breastfeeding employees.

Risk assessments should be reviewed regularly. Employers are responsible for providing a safe working environment while effectively managing risks to the health and safety of all workers, including women of a childbearing age.

Employers must carry out an individual risk assessment for pregnant workers and new mothers. This applies to workers who:

- are pregnant.
- have given birth in the last six months.
- are currently breastfeeding.

This is what the RCM expects to see

Employers have a policy to support breastfeeding – to include:

- a break allowance for mothers to express milk
- provision of a clean, warm, private room (not the toilet) for expressing
- a secure clean fridge to store expressed milk
- flexible working hours for breastfeeding mothers
- informing employees about your policy before they start their maternity leave

Further advice

law, pregnant workers and new mothers have other rights when they are at work. It is unlawful to dismiss, discriminate against or harass a worker because they are pregnant or a new mother. Pregnant workers may be entitled to paid maternity leave and paid time off for antenatal appointments.

What can you do if you have concerns about the facilities (or lack of) provided in your workplace.

- Speak to your line manager before you return to work to understand the facilities and support available.
- Meet with your RCM Branch representative and share your concerns - they can support you and represent your interests and negotiate with management on your behalf.
- RCM workplace representative will start by looking at the policies in your workplace, if necessary, discuss with managers and human resources policies should include these provisions.

Guidance from Health and Safety Executive to employers: Rest and breastfeeding at work

Pregnant workers and breastfeeding mothers are entitled to more frequent rest breaks. Employers should talk to them and agree the timing and frequency. You must provide a suitable area where they can rest. It should:

- include somewhere to lie down if necessary.
- Be hygienic and private so they can express milk if they choose to – toilets are not a suitable place for this.
- Include somewhere to store their milk, for example a fridge.

Advice from ACAS on accommodating breastfeeding employees in the workplace.

HSE still reference this, and employers should not ignore ACAS guidance.

Some work presents an extra risk for breastfeeding mothers and their children. This includes working conditions that could expose them to organic mercury, radioactive material, or lead.

Further information:

NHS UK

[www.nhs.uk/conditions/baby/
breastfeeding-and-bottle-feeding/
breastfeeding-and-lifestyle/back-to-
work/](https://www.nhs.uk/conditions/baby/breastfeeding-and-bottle-feeding/breastfeeding-and-lifestyle/back-to-work/)

HSE

www.hse.gov.uk/mothers/

ACAS

[www.acas.org.uk/accommodating-
breastfeeding-employees-in-the-
workplace](https://www.acas.org.uk/accommodating-breastfeeding-employees-in-the-workplace)

UNICEF Baby Friendly

www.unicef.org.uk/babyfriendly/



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