



Royal College
of Midwives

Guidance RCM workplace representatives: supporting breastfeeding workers in the workplace

The RCM has developed this resource to support breastfeeding in the workplace. It can be used by:

- RCM workplace reps to help support our members who may be encountering issues themselves.
- Branch members to understand 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.

Background

We will all be aware of the barriers breastfeeding workers face- no space to express or rest some even report being told to use a toilet cubicle due to lack of privacy. RCM members often face problems themselves, when returning to work into a maternity unit under pressure and understaffed.

There can be 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.

In 2013 Parliament failed to adopt proposed legislation making breastfeeding/expressing breaks in the workplace a statutory requirement, a campaign which had been led by Maternity Action. The ACAS guidance for employers was proposed instead with an advisory panel of breastfeeding organisations including La Leche League GB and Maternity Action, who 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 employers are required to do by law, managing workplace issues and providing support to employee's returning to work following maternity leave:

ACAS guidance can be found here: [Accommodating breastfeeding employees in the workplace](#) however RCM feel this is long overdue for a review and will be requesting ACAS update this publication to include all the latest evidence, legislation and changes in workplace practices, such as increased remote working'

The RCM continue to raise awareness and call for extended legal rights for Breastfeeding Mothers.

What is RCM doing

2021 – The RCM presented a motion to the TUC Congress, stating that ACAS guidance was being ignored by many organisations and this was affecting breastfeeding rates in the UK, which are among the world's lowest.

The RCM said that women reported having to express milk in staff toilets and are not getting paid breaks to breastfeed or express their milk. Many also do not have the right facilities to store expressed milk during the day, leading to women breastfeeding less or stopping earlier than they would like.

The RCM also called for a review and strengthening of the ACAS guidance and for it to have a statutory footing so that employers have a legal duty to implement.

2023 - RCM have agreed to call for strengthening of breastfeeding facilities and workers' rights on return to work using RCM Caring for You campaign and Charter.

This will call for all NHS employers to raise the standards of support facilities and time for their breastfeeding employees to set a gold standard example to all employers.

2024 - RCM have agreed that supporting breastfeeding workers will be 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.

We will also be developing further resources for our representatives and members and will include the issues on the agenda of the National Health Safety and Wellbeing group – (subgroup of NHS Staff Council).

RCM workplace representative resources

If a woman is still breastfeeding when she returns to work, she should inform her employer/line manager. 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.

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.

Understanding what the law says:

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 6 months or is breastfeeding.

The Employment Rights Act

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

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>

More advice on pregnant workers and new mothers

As well as health and safety 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 ante-natal appointments.

What can you do as a workplace representative?

Are members reporting or are you aware of issues in your workplace?

Discuss with your RCM Branch officials share intelligence and information.

Start with your local policies do they include the guidance from HSE:

4. Rest and breastfeeding at work

Pregnant workers and breastfeeding mothers are entitled to more frequent rest breaks. You should talk to them so you can 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.

There is advice from Acas on accommodating breastfeeding employees in the workplace. **NB** - 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.

Ask if the employer has undertaken an individual risk assessment for as long as the member/employee wishes to continue breastfeeding 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 6 months, or
- are currently breastfeeding.

Use these HSE guidance's to support your management discussions and influence change and negotiate for improved services.

Meet with DOM's/HOM's HR/Workforce business partners to review local policies supporting breastfeeding employees they should include:

- an individual risk assessment
- suitable facilities
- safe and fair working arrangements
- breastfeeding breaks.

Discuss with other Trade Union reps at staff side meetings – what support is available in other areas of the Trust/HB

How are breastfeeding workers supported when their work takes them to community settings?

Liaise with other regional reps share best practise.

You can signpost members to HSE for their rights as pregnant/breastfeeding mothers.

<https://www.hse.gov.uk/mothers/worker/index.htm>

Please share your experience with your RCM regional officer and regional organiser to feedback into RCM organisation.

Resources and useful links:

RCM ilearn – **Understanding pregnancy and maternity rights at work.**

<https://www.who.int/campaigns/world-breastfeeding-week/2023>

<https://maternityaction.org.uk/advice/breastfeeding-at-work/https://www.laleche.org.uk/working-and-breastfeeding/>

<https://www.hse.gov.uk/mothers/worker/index.htm>

<https://www.acas.org.uk/accommodating-breastfeeding-employees-in-the-workplace>

<https://www.thompsonstradeunion.law/news/commentary/personal-injury/landmark-ruling-for-breastfeeding-mothers-in-easyjet-case>

<https://neu.org.uk/sites/default/files/2023-07/NEU3031%20Breastfeeding%20women%20at%20work%20booklet%20v6.pdf>