

WORKING PARENTS & CARERS

Risks of Brexit

Introduction

EU law improved the rights of pregnant workers and new mothers in the workplace. It secured new rights to time off and protections from unfair treatment for working parents and carers too. Further gains may come from new EU initiatives to help workers balance work and family life.

EU improves rights for working parents and carers

Women have had a right to take paid maternity leave in the UK since the 1970s and the length of leave far exceeds the EU minimum. However, the EU Pregnant Workers Directive resulted in significant improvements in the position of pregnant women and new mothers in the workplace when it was implemented in 1994. For example, it: introduced a right to paid time off for ante-natal care; got rid of the qualifying period for unfair dismissal in pregnancy and maternity cases; and gave women a right to a suitable alternative job if they were made redundant while on leave.

The EU Parental Leave Directive, which was negotiated between trade unions and employers at EU level, was implemented in the UK in 1999. Working parents gained the right to take time off to care for a child. The Directive was recently re-negotiated at EU level and the right to leave was improved from 13 to 18 weeks per child. In the UK, the leave can be taken for children under 18 years old. And, despite being unpaid in most workplaces, one in ten parents in the UK use the leave each year, including one in five single parents who face particular difficulties managing work and childcare. The Directive also introduced a right to time off for urgent family reasons, like a child falling ill or care arrangements breaking down – nearly a quarter of parents and a third of carers use this right each year.

The EU is currently consulting trade unions, employers and others on proposals for new rights to fathers' leave, carers' leave and stronger maternity protections. It recognises that enabling workers to balance work with family life is central to achieving greater gender equality and to dealing with the pressures of an ageing population.

EU LEGAL RULINGS BENEFIT PARENTS AND CARERS

Rulings from the European Court of Justice (ECJ) have improved the rights of pregnant women, parents and carers in the workplace. For example, the ECJ recognised that treating a woman unfavourably because of pregnancy or maternity leave was direct sex discrimination. Before that UK law had required a comparison, usually with a sick man who was off work for a long time. This often resulted in a finding that there was nothing wrong with how the woman had been treated. The ECJ also ruled that a mother who was treated badly by her employer because of her need to care for her disabled child, could claim disability discrimination. This resulted in stronger legal protection for carers in the workplace. And, in recent years, the ECJ has begun to recognise the importance of giving fathers equal access to leave that is not tied to the special needs of the mother immediately after birth. This may help strengthen the case for improving fathers' rights to paid leave in the UK.

Risks of Brexit

If the UK votes to leave the EU, it is likely that all EU-guaranteed rights will be reviewed and many will be vulnerable to repeal or dilution. Recent UK governments have had a clear aim of reducing workers' rights that they see as a 'burden on business'.

Maternity and family leave rights have often been attacked for imposing costs on employers. In 2012, the Beecroft review of employment law, which was commissioned by the coalition government, recommended that small businesses should be allowed to opt out of rights like shared parental leave or the right to request flexible working where it was not required by EU law. Maternity and parental leave rights were described as "well-meaning" but it concluded that "the price was not worth paying" for small businesses. Others (e.g. David Cameron's former adviser Steve Hilton or UKIP's Nigel Farage) have argued that maternity rights should be scrapped or weakened because they harm women by making employers reluctant to recruit women of childbearing age. The fact is that women's employment and attachment to the labour market has improved as maternity rights have improved. But it shows that there is repeated questioning of and resistance to these rights.

Brexit would mean that the UK would not benefit from any future advances agreed at EU level too. The EU is currently consulting on whether new rights are needed to improve the quality of work and family life. In addition, future rulings of the ECJ, which taken a positive and wide-ranging approach, would not be binding in the UK. Instead, the UK could race to the bottom, cutting workers' rights for short-term monetary gains.

For more information go to www.tuc.org.uk/euref

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