

“I was devastated by the way I was treated when I returned to work from maternity leave” (Ruth Parks, U TV January 2016)

A female finance manager, who was made redundant, following her return to work from maternity leave, has been awarded £50,000 in compensation.

The above case described how Ms Parks’ duties had been delegated amongst the existing team when she took a period of maternity leave from work. This resulted in one staff member having his hours increased and the recruitment of two further permanent staff members. This provided the employer with their work/staff ratio, at the expense of Ms Park’s maternity leave absence. Ms Park’s was subsequently made redundant when she attempted to return to her job, which was no longer available to her, after her period of maternity leave.

An employer will sometimes attempt to create a façade of redundancy as a deliberate means of dismissing an employee returning from maternity leave, especially where their job is now being neatly handled by someone else. So, why won’t the employer give the job back rightfully to the employee returning from maternity leave? It’s often a case of an employer’s mind-set of “out of sight, out of mind”. Other employers feel comfortable with the current status quo of their business and simply don’t want the employee back following her maternity absence. Some even fear for the employee’s commitments to her young baby interfering with her work.

Most employers seeking to make employees redundant usually tread with caution. They can’t be seen to cherry pick who they want to retain and who they don’t. Most go through a process of sorts, with the creation of a selection pool and criteria. However, some employers engineer the process from the outset to achieve the outcome they want. They may implement certain criterion for those at risk of redundancy, in the knowledge that it will put the employee who has been absent on maternity leave on a significant back foot in the scoring criteria.

Ms Parks described her treatment as “demeaning” when her employer offered her an alternative role which was neither suitable nor appropriate to her skill set and experience. What if there are similar roles up for grabs or the employee’s old role forms part of the redeployment exercise? An employee on maternity leave is protected from redundancy

where a suitable alternative vacancy arises. it should be ring fenced for her without need for prior assessment or interview. This pocket of legislation seeks to positively discriminate against women returning to work from maternity leave, something which is detested by a number of employers who question why women should be given such preferential treatment. Whilst an employer is statutorily obliged to ring fence the vacant role for the woman, some unfortunately do not, instead arguing the toss that the vacancy is not a suitable alternative role. This causes women to face being told they are redundant at the end of their maternity leave. It is helpful for employees to know that any proven dismissal contrary to Regulation 10 will be regarded as automatically unfair.

So, what's the remedy for the poor employee that is unfairly selected for redundancy? Well, firstly there is an appeal and failing that, they can always follow Ms Park's lead and take action against their employer.



Stand EA8, Family Expert Area