

WORKPLACE SUPPORT FOR EMPLOYEES EXPERIENCING PREGNANCY OR BABY LOSS

A guide for people professionals



December 2022

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Guide

Workplace support for employees experiencing pregnancy or baby loss: A guide for people professionals

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Acknowledgements

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The CIPD is incredibly grateful to the organisations and experts who gave their time and expertise to provide feedback to help inform this guide. These include:

- Dr Krystal Wilkinson MCIPD, FHEA, Senior Lecturer in HRM, Manchester Metropolitan University
- Vicki Robinson, Deputy Director, Miscarriage Association
- Pregnancy and Parenting at Work Team at Tommy's, UK pregnancy and baby charity



















1 Introduction: purpose of this guide

This guide will help people professionals develop effective organisational support for employees experiencing pregnancy or baby loss. Our <u>research</u> shows that there is a lack of workplace provision for people at a very difficult time in their lives. Building on our research findings, the CIPD wants to help bridge this gap by encouraging organisations to view pregnancy and baby loss as an important workplace wellbeing issue and by providing practical guidance about the support employers can put in place.

This guide aims to:

- 1 raise awareness of the prevalence and impact of pregnancy and baby loss
- 2 highlight the need for effective workplace support and what that might look like
- 3 inspire employers to create an environment where individuals feel able to access support if they want to.

Pregnancy and baby loss can be a very difficult time and, unfortunately, it's more common than many people think. It's estimated that <u>one in four pregnancies in the UK end in loss during pregnancy or birth</u>. Given that the majority of people wanting to start or grow a family are of working age, it's safe to assume that most of these losses happen to individuals who are in employment.

Pregnancy and baby loss is often a hidden issue within the workplace. However, when dealing with the physical and mental wellbeing impacts of loss and grief, employer support can be very valuable. This includes giving people the time and space they need without them worrying about their job and/or finances. The way an employer responds can have an impact on how someone copes, as well as on their longer-term views of their employer. It also sends a message to the rest of the workforce about whether or not the organisation genuinely cares for the health and wellbeing of its people. There are also potential benefits for the employer in terms of enhanced levels of staff loyalty, retention and performance.

We believe that providing compassionate support for people who have experienced such loss is the right thing to do. But there is also a business case for employer action. At a time of considerable skills shortages in the UK, organisations should be keen to view the provision they develop in this area as part of an attractive employee value proposition to recruit and retain much-needed talent.

Focus on inclusion

The CIPD's aim in producing this guidance is to be as inclusive as possible in our definition of pregnancy or baby loss. We use the term 'pregnancy or baby loss' to refer to many different types of loss, including miscarriage (the loss of a baby during the first 24 weeks), stillbirth (the loss of a baby after 24 weeks), termination for any reason, ectopic pregnancy, molar pregnancy, chemical pregnancy, embryo transfer loss, and neonatal loss. We refer to pregnancy and baby loss to try and be as inclusive as possible of many different experiences, but we appreciate that individuals may prefer a specific term or phrase and that should be respected.

We believe any support provided should be underpinned by the principles of compassion, empathy and inclusivity. Organisations should offer support to anyone experiencing pregnancy or baby loss, including adoptive parents, foster parents, intended parents and surrogates. It's important to not assume someone's personal situation or family make-up. Furthermore, policies should be inclusive of partners; their feelings often get forgotten, and they are likely to be grieving too.





















It's important to remember that, no matter when a pregnancy or baby is lost, it can be devastating for both parents. Everyone's experience of grief and their wellbeing needs will be personal to them, and so appreciating individual needs and responding in a sensitive and flexible way is key. Unfortunately, one individual may also experience different types of loss or multiple losses, and the support someone needs may change over time. The key point is to not assume what support people will want and be guided by the individual.

We know employers come in all shapes and sizes, with different working practices and environments. This guide is designed to support any employer wanting to develop a supportive framework. The practical suggestions can be adapted for different work environments.

Principles of good practice

Drawing on our survey findings and wider research, the guidance is structured around five principles of good practice to help you design the support that would be most helpful to your employees.

- 1 Raise awareness about the need for pregnancy or baby loss to be recognised as an important workplace wellbeing issue. Education and awareness-raising require careful thought and sensitivity in terms of language and approach, and so it's a good idea to involve employee networks or resource groups, and draw on reliable sources of expert advice.
- 2 **Create an open, inclusive and supportive culture.** The aim is to break down the stigma and ensure that people know they will be supported if they want to tell people about their loss. Communicate positive messages about the support available and ensure that line managers and colleagues show empathy and understanding.
- 3 Develop an organisational framework to support employees experiencing pregnancy or baby loss. This should include specific policy provision, line manager guidance and education as well as access to sources of expert help, such as an employee assistance programme and signposting to external specialist charities.
- 4 Manage absence and leave with compassion and flexibility. Given there is less statutory entitlement for pregnancy or baby loss before the end of the 24th week, consider how generous the organisation's policy can be in offering paid leave and flexibility in these circumstances. Absence management policies and procedures should be flexible and take into account the impact of this kind of loss for both partners.
- 5 **Equip line managers to support people with empathy and understanding.** Line managers play a central role in supporting people's wellbeing and implementing people management policies. Employers cannot expect managers to act as counsellors or medical experts. Their role is to help employees with the work aspects of the situation and ensure that work is not part of the problem. Therefore, organisations should ensure that line managers understand the boundaries of their role, and when and how to signpost to specialist support. They need to build trust-based relationships so that someone will feel able to talk about their need for support or workplace adjustments.

We have also produced case studies of good practice in this area, as well as guides for line managers and colleagues, which can be downloaded separately.

Section 3 of this guide looks at the legal context, outlining the rights and responsibilities of both employers and employees. However, please note that we are not providing legal or medical advice, but practical ideas of workplace support that may benefit employees. Employers may also need to obtain their own specialist advice on the approach to take in any individual case.



















(2) Why is pregnancy and baby loss a workplace issue?

'I just felt that no one really understood how much I was suffering mentally and physically and I felt a pressure to return to work.'

Respondent to CIPD employee survey

Pregnancy and baby loss is typically a 'hidden' issue in the workplace. Therefore, the importance and benefits of a supportive work environment haven't been widely discussed. Some employers may see pregnancy and baby loss as personal issues that have nothing to do with the workplace. Some employees may also feel this way and choose not to share their experience, which should be respected. However, having a framework of support in place gives people the choice of accessing support if they want to.

Pregnancy and baby loss is unfortunately more common than many people think. It's therefore highly likely that a sizeable number of your employees will have experienced such a loss while in employment.

Pregnancy and baby loss is an important workplace wellbeing issue and needs to be recognised as such. Such loss can be emotionally draining and impact people's physical and mental health. Very often, employees will be returning to work while still grieving, which can be a daunting and isolating experience. Support and understanding at work can make a significant difference to how someone copes. Conversely, having to negotiate and appeal for time off and pay can add to someone's emotional distress.

There are various reasons why pregnancy and baby loss tend to be hidden issues. As well as the societal taboo around discussing such loss, there's a persistent high level of pregnancy and maternity discrimination at work, which influences how comfortable people feel sharing their experience. People may be reluctant to tell their manager or colleagues that they are trying for a baby for fear of being overlooked for career opportunities or being seen as not committed at work. Our employee survey found that of the people who said they hadn't told their employer about their pregnancy or baby loss, 19% said this was because they were concerned about the possible impact on their career. As well as preventing any discrimination due to personal and family circumstances, it's in employers' interests to create inclusive and supportive working cultures that attract and retain valuable talent.

The value of employer support

For employers, there is a clear rationale for action. Making employer support available sends an important message that the organisation values employees and their health and wellbeing, and recognises the difficulties they are going through.

Just like with any other wellbeing issue, effective support can help people remain in work and perform well. In our employee survey, on the whole, respondents who felt very or quite supported by their organisation/line manager/colleagues report a positive impact on each of the outcomes from the support they received. The strongest impact from all three sources of support was on people's mental wellbeing.²

In contrast, around a guarter (24%) of employees considered leaving their job because of their experience at work in relation to pregnancy or baby loss.³ In addition to the loss of talent, skills and experience, employees exiting the workforce can significantly





















add to HR professionals' workload and organisational cost in terms of recruitment and training. Furthermore, the long-term absence or exit of one team member can have a significant knock-on effect for other team members, affecting their workload, motivation, engagement and wellbeing.

Offering compassionate support can have a significant impact, helping someone to balance work demands with recovery and the grief of pregnancy or baby loss. If employees feel supported and can access helpful adjustments at work, resources and/or flexibility, they are more likely to feel able to work to the best of their ability.

Developing an effective framework of support can help ensure employees who have experienced pregnancy or baby loss are managed fairly. It demonstrates that the organisation cares about its people as well as helping it to retain valuable skills and talent.

The legal context: rights and responsibilities

This section outlines the legal obligations employers have when supporting pregnant employees, especially those dealing with baby loss.

Legislation to be aware of

Equality Act 2010

At the point at which a woman becomes pregnant, they are automatically protected against discrimination. The period between the start of the pregnancy to the end of the maternity leave is known as the 'protected period' under the Equality Act 2010. If the woman has no statutory right to maternity leave or if she suffers a miscarriage or stillbirth before 24 weeks of pregnancy, the protected period will end two weeks after the date of childbirth or after the end of the pregnancy.

It is unlawful for an employer to discriminate by treating a woman unfavourably due to:

- her pregnancy during the protected period
- an illness she has suffered as a result of her pregnancy during the protected period
- the fact that she is on compulsory maternity leave
- her exercising or looking to exercise her right to ordinary or additional maternity leave.

Unlike the test for direct discrimination, the test for pregnancy- or maternity-related discrimination is unfavourable treatment, rather than less favourable treatment, so there is no need for a comparator. However, the employer must have knowledge of the pregnancy to discriminate because of it.

It is important to note that employers must not treat a woman unfavourably not only due to her pregnancy but also because of an illness related to her pregnancy, such as morning sickness.

Maternity and Parental Leave etc Regulations 1999 (the Regulations)

Where a baby is stillborn, the Regulations distinguish between a loss before 24 weeks and after 24 weeks.

If the employee loses a baby before 24 weeks through miscarriage, ectopic pregnancy, molar pregnancy, termination, or after a failed embryo transfer, there is no entitlement to maternity, paternity, shared parental or parental bereavement leave or pay. However, the employee may have some rights to time off under other legislation, as outlined below.





















Where a baby is lost after the beginning of the 24th week or where a baby is born alive during any stage of pregnancy, even if that baby later dies, the employee is entitled to take up to 52 weeks' maternity leave, beginning the day after the birth (unless the maternity leave had already commenced). Under the Paternity and Adoption Leave Regulations 2002 (below) the father or partner of the birth mother may (subject to eligibility) be able to take to up to two weeks' paternity leave.

Employment Rights Act 1996 (the Act): time off for dependants

Section 57A(1)(c) of the Act specifically provides that an employee is entitled to a reasonable amount of unpaid time off to take 'action which is necessary... as a consequence of the death of a dependant'. It might reasonably be argued that an employee who takes time off following the loss of a baby could be regarded as taking 'action which is necessary'. The statutory right is to unpaid time off.

Working Time Regulations 1998

A full-time employee has a statutory right to at least 5.6 weeks' paid leave per year. In circumstances where the employee does not qualify for family-related statutory leave, it is possible for them to give notice that they wish to take paid leave.

Shared Parental Leave Regulations 2014

If an employee and their partner had given notice before the birth of the baby to take shared parental leave (SPL) and the baby is born but then dies, the employees are entitled to take the SPL that has already been booked. The SPL can be varied or cancelled by the employee giving eight weeks' notice.

If no notice of the intention to take SPL had been given before the baby dies, there will be no entitlement to SPL.

Paternity and Adoption Leave Regulations 2002

Where the employee has begun their adoption leave and the baby is stillborn or dies, the entitlement to adoption leave will end eight weeks later.

In addition, as described above, following a loss after the beginning of the 24th week, the father or partner of the birth mother or adopter may (subject to eligibility) be able to take up to two weeks' paternity leave.

Parental Bereavement Leave Regulations 2020

An employee may be eligible to take two weeks' parental bereavement leave during the first 56 weeks following their baby's death. This is available to both parents, regardless of their length of service.

If the employee was on another type of statutory leave when the baby's stillbirth happened, parental bereavement leave must start after that other leave has ended.

Data Protection Act 2018: General Data Protection Regulation 2016 (GDPR)

Certain types of personal data are likely to be more sensitive than others. This is special category data, which includes health data and so includes pregnancy and baby loss. The GDPR prohibits the processing of special category data but recognises there may be circumstances in which the processing of this data is necessary, and so there are several conditions under which processing can be based.

One of these exemptions is processing the data to carry out the controller's rights and obligations in the field of employment, social security and social protection (if authorised





















by law). To apply this exemption, the employer must demonstrate that the processing is necessary for a specific purpose, for example processing statutory maternity pay records. Employers should ensure they are only processing health data to perform their obligations in employment and, if they are not, they will require consent from the employee to hold and process the data.

Disclosing a miscarriage, stillbirth or loss of a baby to employees (including managers) without the employee's explicit consent would likely breach the GDPR. However, in practice, employees will likely consent to their colleagues being made aware of their loss where those colleagues were aware of the pregnancy. In cases of miscarriage, it may be that no one at work was aware and therefore disclosure to others of this information without consent should be avoided.

Future legislative developments

The Miscarriage Leave Bill has been presented to the House of Commons and is due to have its second reading in December 2022. The bill is proposing at least three days of paid miscarriage leave for both parents in the UK.

In England, a new pregnancy loss certificate has been introduced as a voluntary scheme that will enable parents who have experienced a loss before 24 weeks to record this and receive a certificate that will provide recognition of their loss.

Legal entitlements following loss during the first 24 weeks

As outlined above, there are very different legal entitlements for employees who experience pregnancy or baby loss after 24 weeks of pregnancy compared with before 24 weeks. This section details entitlements for employees who experience baby loss before 24 weeks.

Sickness absence

Under the Social Security Contributions and Benefits Act 1992 and the Statutory Sick Pay (General) Regulations 1982, an employee may be able to take sick leave and qualify for statutory sick pay (SSP), as well as any contractual occupational sick pay provided by the organisation, when a baby is lost before 24 weeks.

Any sickness absence the birth mother needs to take following a loss before 24 weeks is likely to be considered a 'pregnancy-related illness'. As explained above, under the Equality Act 2010, there is a 'protected period' for employees who suffer a miscarriage or stillbirth before 24 weeks of pregnancy. The protected period will end two weeks after the end of the pregnancy. During this period, if an employee is put at a disadvantage and treated less favourably because of a pregnancy-related illness or related time off, this could be discrimination. Therefore, employers should record any sickness absence related to pregnancy loss during this two-week period outside of the organisation's normal reporting procedure.

However, our survey found that fewer than one in five organisations (18%) record absence for this reason outside the normal sickness reporting system (that is, not using triggers). It's important that, at the very least, organisations reflect the two-week protected period in their policies and procedures in order that they are compliant with the law.

Further, the health and wellbeing impacts associated with pregnancy or baby loss can potentially affect someone's capacity to work beyond the protected two-week period, and so it's good practice to continue to treat this type of non-attendance outside of the organisation's normal absence reporting procedures and triggers. It could be that an employee has either a longer period off sick, or a series of short-term absences, and there should be no adverse management action taken for either type of absence.





















The partner of someone who has experienced pregnancy loss during the first 24 weeks doesn't have any statutory rights in terms of sickness absence. Organisations should consider extending their leave policy specifically for pregnancy or baby loss to partners, or if not, offer paid or unpaid compassionate leave in this situation.

Fit note certification

An employee who has experienced pregnancy loss at any stage can self-certify for the first seven days of absence that the leave is pregnancy-related. Often, an employee may not have told their employer or manager they were expecting. Therefore, informing them of the loss could be particularly challenging and some may choose not to disclose. This is the individual's personal decision.

However, in order to benefit from the two-week statutory protection for sickness related to pregnancy loss, after seven days' self-certification, the employee will need to obtain a fit note stating the reason for absence from a health professional such as a GP. Therefore, an organisation's policy about pregnancy or baby loss should clearly set out sickness absence procedures in this situation and emphasise that disclosure will be treated confidentially and with sensitivity.

The organisation should ensure that line managers understand policies and procedures and can manage sickness absence in an empathetic and supportive way. This means ensuring that the system is easy to navigate for both manager and employee, and both understand what's required of them when someone is off sick.

4) Create an open, inclusive and supportive culture

Promoting wellbeing and inclusion in the workplace is an important aspect of good people management - it's about valuing and supporting everyone as an individual. Those experiencing pregnancy or baby loss should feel supported and included in their working environments and feel able to seek help and/or adjustments where needed. This kind of culture can have far-reaching benefits in supporting employees through many different and challenging life events.

'Understanding and patience is so important. In particular, understanding that the pain from loss can last for a long time and anniversaries are important to support too. Even when there is early pregnancy loss.'

CIPD employee survey respondent

Break down the taboo

There are still taboos in society about both bereavement and pregnancy/baby loss. For example, our research shows that only around a quarter (24%) of senior decision-makers reported that their organisation encourages an open and supportive climate where employees can talk about issues like pregnancy loss or fertility treatment to a great extent.⁴ The resulting silence and stigma about these challenging life events inevitably spills over into the workplace.

Employers can play an important role in breaking down these taboos. Employees working in supportive and compassionate environments are more likely to feel able to discuss a





















wellbeing issue or a traumatic life event, to ask for help when needed, and to make an effective return to work. When managers manage well and build trust-based relationships with their team, they help to create an environment that is open, respectful and kind, in which people feel 'psychologically safe'. This means individuals feel able to speak up about a health or personal issue without fear of criticism or discrimination, and in the knowledge they will be listened to and receive support and understanding.

Organisations should aim to build a culture of psychological safety, where good working conditions and supportive conversations are prioritised and mental health and physical health are given equal standing. Too often, pregnancy and baby loss is not part of the narrative in organisations, and ensuring that it is explicit in policies, training and guidance will help to guide people how to behave as well as letting people know the support that is available.

Communicate a compassionate approach

Employers should communicate a compassionate and inclusive attitude towards pregnancy and baby loss, so that all employees know that their employer is supportive. Developing a policy which recognises pregnancy and baby loss as a health and wellbeing issue is a good starting point, but organisations should also consider how they communicate with employees. Think carefully about tone to ensure that it's compassionate and supportive, and the language is appropriate and inclusive.

Developing awareness and understanding among line managers and colleagues can help to build a compassionate and supportive culture. Information and education should be included as part of any relevant training for line managers. There should be clear signposting to internal and external sources of support.

Some employees might not want to approach their line manager, so other options should be available. This may be through HR, an employee resource group or a welfare officer. Many employers have employee assistance programmes (EAP) that can be a confidential source of help and advice. Other routes of support can also help if a line manager feels unable to support their team members on this issue, and there should be support in place for the line manager themselves.

See the CIPD's guidance on compassionate bereavement support for more practical information on how bereavement and grief can affect people and how to build a supportive and open culture.

'Baby loss is an incredibly difficult time. I didn't think it would affect me as much as it did. Three months later and I'm still having low days. My manager hasn't been very helpful. Even though he is a man, it's no excuse. He has already begun to treat me differently. For example, we have a work trip in six months and he said that he didn't expect me to attend as I might be pregnant again. I found this very triggering. My colleagues have been wonderful, though, very understanding and supportive.'

Respondent to CIPD employee survey





















Build supportive workplace cultures for mental health

It's vital that organisations integrate their support for people experiencing pregnancy or baby loss within their framework for creating a mentally healthy workplace. Creating an open culture of support will help ensure that people experiencing pregnancy or baby loss will feel more comfortable raising any issues and asking their manager for support. This should flow from an organisation's culture to encourage openness and inclusion around mental health issues where people feel able to talk about how they are feeling and seek support if they need it.

The CIPD/Mind people managers' guide to mental health provides practical advice on how to develop a mentally healthy workplace.

Remember the impact on partners

Partners will often be providing practical and emotional support as well as grieving themselves. It's likely that partners will return to work sooner after a loss and suppress their grief, often at the expense of their own wellbeing. They are also less likely to proactively seek support. The workplace can play an important role in giving partners time and space to grieve that they may not otherwise have, as well as potentially signposting to specific support they may not otherwise find. It's important to consider this perspective and the needs of partners in your promotion of available support, as otherwise employees might see the policy as only relevant to employees physically experiencing the loss.

'It was an incredibly difficult time with mental health for my partner and I. I prefer that it stayed private due to the level of support/stigma that I was given from the outside world. There is plenty of support for women but not men.'

Respondent to CIPD employee survey

Ensure that policies and practices are inclusive

Organisations should be sensitive to any cultural or other diversity considerations or differences. For example, individuals from certain cultures or backgrounds could feel less comfortable talking about bereavement and loss. It could also be the case that someone who talks about their experience of pregnancy or baby loss may not have previously shared a same-sex relationship.

Take an individual approach

It's important not to make assumptions and to take the lead from the individual in terms of what they would like to share and what support they might need. No one should feel pressured to discuss their loss if they don't want to. However, they should still be able to access support. The onus should be on the organisation to create an open and supportive culture where people can talk and seek support if they want to.

Manage sensitive situations well

There needs to be awareness and sensitivity around certain events that could be upsetting, such as Mother's Day or Father's Day, pregnancy announcements and baby showers. Organisations should ensure that managers actively support employees who may be living through very contrasting personal situations. This doesn't mean that employees expecting a child can't share their experience and anticipation, but managers and colleagues need to



















show compassion and sensitivity if they know another colleague has not been so fortunate. For example, supportive managers might have conversations about how best to support someone, including having an agreement around pre-warning, allowing the individual to excuse themselves or be busy elsewhere at points that could be particularly triggering.

An ongoing strategy

Implementing a policy and/or framework is not a one-off event. It's important to continue promoting the organisation's policy and support framework and reinforce compassionate messaging around the topic. Otherwise, it can slip off the agenda and employees won't know where to turn for support when they need it. Opportunities for awareness-raising include health and wellbeing days and national awareness days, including Baby Loss Awareness Week. Talking about the value of a supportive workplace and signposting to specialist professional sources of support will also raise awareness.

To encourage awareness and empathy, organisations could hold workplace training sessions on how to support employees who have experienced bereavement. Such sessions should highlight the support available. They could also cover helpful language and behaviour tips when supporting a colleague. When arranging training, organisations need to be mindful about the involvement and potential impact on any employees who could have experienced pregnancy or baby loss.

Knowing what to say

It can be difficult to know what to say to a colleague who has experienced pregnancy or baby loss. Some people worry about saying the wrong thing and so say nothing at all, which could feel very isolating for someone who has returned to work after a loss. It's important to be guided by the individual experiencing the loss, and some people may choose not to discuss it. This should be respected, but colleagues can still ask how someone is, showing they care but giving the individual the choice and space in how to respond.

The Miscarriage Association provides useful pointers of what to say to someone after pregnancy or baby loss.

Comments that could be helpful:

- 'I'm very sorry that you have lost your baby.'
- 'This must be really difficult for you.'
- 'I don't know what to say.'

Things not to say:

- 'Don't worry, you're young. You can always have another baby.'
- 'It wasn't meant to be.'
- 'It was probably for the best.'
- 'At least you have other children.'

Although often meant with the best intentions and with the aim of helping the person stay positive, they may be upsetting to hear.

Source: Miscarriage Association.





















5) Develop a framework to support employees

People professionals are ideally placed to develop a proactive framework to support employees affected by pregnancy or baby loss. They have the strategic oversight to understand which policies are relevant or need to be developed, as well as the ability to ensure that effective support is in place.

'Patience and human understanding is important when supporting staff through this experience. The emotional support coupled with paid time off and an adjusted workload from my manager consulting with me were just what I needed. I was treated like a human instead of a robot and there was an understanding that I knew most about how best to manage my health and thus was consulted on what my options are and what is the next best thing to do.'

Respondent to CIPD employee survey

People professionals should also be in a position to:

- develop a policy that outlines the support available and is written in a compassionate and supportive way
- ensure that senior management view pregnancy and baby loss as a legitimate workplace wellbeing issue
- integrate appropriate education and training provision into line manager development interventions - a policy is not complete without a plan to embed it and ensuring line managers are capable to implement it.

The framework that employers develop will have a direct influence on how compassionate and supportive the climate is and how capable and confident line managers feel to support people. We now explore some of the key factors to consider in developing an inclusive framework.

Integrate support within people practices

Creating a framework to support employees experiencing pregnancy or baby loss means recognising this is a health and wellbeing, inclusion and diversity, and people management issue. The organisation needs to develop a holistic approach, and align relevant provision across policies and practices in all of these areas to be effective.

The first step is to audit the existing provision to evaluate what support is already available, and where there are gaps. For example, do you have an employee assistance programme (EAP) or access to counselling services, and does your people management approach and training stress the importance of what are often termed the 'softer' management skills, including compassion, inclusiveness and empathy?

Develop a policy or plan

Developing a dedicated, transparent and readily accessible policy or plan will:

- offer an opportunity to engage with employees on the issue and show the organisation regards pregnancy or baby loss as an important issue
- provide clarity for managers and employees, for example by setting out key responsibilities, entitlements and sources of support



















- prompt HR to systematically audit the organisation's existing provision related to pregnancy or baby loss and think strategically and practically about how to develop the most effective framework
- enable HR to collaborate with its occupational health (OH) service, if it has one, and any EAP partners, to develop an organisational framework that's informed with specialist input and fully integrated into OH policies and practices
- encourage consistency in how the organisation and individual managers support employees and offer time off and access to adjustments
- establish the framework for evaluating the impact of the organisation's provision.

A policy covering pregnancy or baby loss should be consistent with the organisation's wider people management policy provision, and cover key areas, including:

- statement of principles, including how the organisation is committed to supporting employees experiencing pregnancy or baby loss; how its intention is to be inclusive in recognising that partners can also be significantly affected, and that support should be made available to anyone experiencing baby loss during pregnancy, including adoptive parents, foster parents, intended parents and surrogates, and covering all types of pregnancy or baby loss
- explanation of pregnancy and baby loss, to promote a basic understanding among all employees about the prevalence of pregnancy and baby loss, the types of loss, and potential impacts on health and wellbeing
- key responsibilities, setting out which employee groups have responsibility for implementing specific aspects of the policy, including senior managers, line managers, HR, employees and OH
- pay and time off, with detail on the provision available for people (including partners), such as number of days' paid leave, time off for appointments
- links to internal and external sources of support, such as OH, EAP, counselling services, any internal employee networks and external support groups and specialist charities, as well as relevant policies such as flexible working
- activities and initiatives to be implemented under the policy, such as line manager training.

There needs to be sensitive alignment between policies on pregnancy and baby loss and pregnancy/maternity leave. The organisation's maternity/paternity framework also needs to consider any implications following someone's experience of pregnancy or baby loss. For example, thought should be given to employees who disclose pregnancy after a previous loss (or recurrent loss) and who might need more support through any subsequent maternity journey. Some people who have experienced a previous loss may be uncomfortable early on discussing maternity leave and other arrangements related to their pregnancy. It's important that organisations have this nuanced and sensitive approach to supporting an individual's unique needs.

Where should a policy on pregnancy or baby loss sit?

Not every organisation will decide that having a standalone policy is appropriate for its culture or people management framework. It may prefer to incorporate provision across its existing policies, where relevant, and develop dedicated line manager guidance and training to bring this policy provision to life. The positioning of the policy and its framing needs careful consideration to ensure that it is perceived as supportive and compassionate.

Our research shows a quarter (25%) of employers who cover pregnancy loss/miscarriage within a wider policy include it in their wider health and wellbeing policy and 17% include it in their parental bereavement policy. However, the main approach (41% of employers) is to include provision in their policy on maternity/paternity/shared parental leave. This is not the ideal place to have information about employer support for employees experiencing pregnancy or baby loss and could feel insensitive.





















Involve employees

It's important to listen to employees themselves about how the most effective provision can be developed and what it should look like. The organisation should tap into any employee networks and/or volunteers, such as those championing health and wellbeing or equality, inclusion and diversity issues.

Some employee volunteers or networks may have lived experience of pregnancy or baby loss, and their feedback, if they are comfortable to provide it, will be invaluable in terms of helping to inform areas such as:

- the kind of policy provision and support that will be most helpful
- helpful external sources of support and networks
- appropriate language and tone
- how best to build awareness of the topic and the support available.

If the organisation involves employees with lived experience, this should be approached with the utmost sensitivity, and appropriate wellbeing support should be made available throughout the process. People should not feel under any pressure to contribute at any stage.

Remember, however, that these groups may only represent a small part of a larger community affected by pregnancy or baby loss. First, not all employees affected by pregnancy or baby loss will necessarily join an employee network and so it won't capture all employees' experiences and views. Second, partners may not be equally represented on employee networks or resource groups.

Tailor support for individuals

Everyone will experience loss differently, have different needs and therefore find different forms of support useful. It's essential to treat everyone as an individual and not assume what they may need. Instead, be guided by them through a sensitive and supportive conversation.

Although the support someone requires will be individual to them, our research findings suggest that paid leave and manager support are two particular areas that employers may want to consider investing in.⁵

In any conversation, HR professionals and/or line managers should be proactive and tell the employee what support and policies are available, for example the type of leave they could take. This means people don't need to ask for support at the outset. The next step is to ask, 'How else can we support you?' This approach will hopefully set the groundwork for the employee to feel more confident to ask for help that suits their circumstances and needs. It's also important there's an ongoing dialogue, as needs will likely change over time and there is no set timetable for dealing with loss and grief.

Factors to consider when designing your framework of support

Ideally, people management and health-related policies and practices should contribute to a compassionate, inclusive and flexible workplace ethos. This is particularly important when drafting and communicating policies on issues as sensitive as pregnancy and baby loss, where employees have experienced such emotionally distressing events.

With this in mind, consider the following about your policies and practices:

 Are they written in a way that can be understood by everyone, using plain English and a tone and language that's compassionate and demonstrates care? All too often policies use formal, legalistic language that employees don't understand or makes them feel like a number in a system rather than a person the organisation values and wants to support.





















- Are they fully inclusive? In the case of pregnancy or baby loss, is it clear that the policy covers every type of loss, including miscarriage, termination for any reason, ectopic pregnancy, molar pregnancy, chemical pregnancy, embryo transfer loss, still birth and neonatal loss? Is the policy inclusive of anyone experiencing pregnancy or baby loss, including adoptive parents, foster parents, intended parents and surrogates? Policies should be inclusive of partners, who should be able to access an equal level of support.
- Do they make clear that time off and/or work adjustments are available and how to access this provision? Ensure there's clarity on the type of leave on offer and that it's okay to take it. It's good practice for organisations to provide work adjustments to support any individual who needs them.
- Are they flexible? Adopting a flexible and responsive approach to supporting health and managing absence should be a core element of an effective framework. For example, the use of trigger systems and disciplinary processes around absence can place additional pressures on employees experiencing challenging wellbeing issues like pregnancy or baby loss. Organisations should avoid having a rigid approach to absence management and treat absences related to pregnancy and baby loss outside any trigger system to ensure employees aren't unfairly penalised for taking any genuine sickness absence.
- Do they allow for an individualised approach to be effectively implemented? For example, are managers capable and confident to make decisions and take action where it is in the best interests of the employee, the team and the organisation, without seeking additional sign-off from senior management or HR?
- Are they consistent across the organisation? People management practices should reflect an individualised approach to supporting health and wellbeing. But to promote fairness it's important that there is consistency in how these are implemented by line managers on a day-to-day basis across the organisation.
- Do they tell people what needs to be done and how to do it? Many policies will outline what needs to be done in practice, but few provide information about how this can be done to achieve the best outcome. For example, guidance on when, where, how to prepare and what to ask would help managers and employees hold better return-to-work conversations.
- Do they equip managers with the knowledge, skills, abilities and confidence to support employees who have experienced pregnancy or baby loss? Line managers have dayto-day responsibility for managing people and supporting their wellbeing, and so they can be the first port of call for employees who have experienced pregnancy or baby loss. They need to have the capability and confidence to implement the organisation's policies, hold sensitive discussions and signpost to expert sources of help where needed.

Updating your organisation's policies and practices to incorporate these considerations will hopefully give employees who have experienced pregnancy or baby loss the support they need and demonstrate that they are valued, benefitting both the individual and the organisation.

6) Manage absence and leave with compassion and flexibility

Many people will experience pregnancy or baby loss as a bereavement and need time to grieve. It can affect people's health and wellbeing in a number of different ways, including their mental and physical health. An employee may want to take some time off, be temporarily unable to perform certain roles or find their performance is affected. It's important that an organisation's policy and support relating to pregnancy or baby loss recognises this and is aligned with its provision for bereavement support, as well as its mental health framework.





















Organisations should ensure that their leave arrangements, as well as their absence management and return-to-work framework, reflect a flexible and compassionate approach. Information about pregnancy and baby loss, and the support available for people experiencing it, should be incorporated into the organisation's health and sickness-absencerelated policies and procedures.

Many employees will need to take time off work to deal with such an emotionally upsetting, and often traumatic, event. One employee's experience of this kind of loss can be entirely different from another's. Therefore, the organisation's framework should be responsive to people's unique needs where they or a partner have experienced pregnancy or baby loss.

How might a pregnancy or baby loss affect an employee at work?

Miscarriage affects people in different ways, but they may be:

- having difficulty sleeping
- finding it difficult to concentrate or to feel motivated
- struggling with social interaction
- experiencing mood swings
- feeling more tearful and/or irritable
- finding it difficult to manage their mental health.

Source: Miscarriage Association: Miscarriage and the Workplace: A guide for employers and employees.

Compassionate bereavement: understanding grief and loss

The CIPD's guide on compassionate bereavement support has helpful information on grief and loss, and how best to support employees at work, including:

- Grief is not linear and does not have predictable stages. Employees will react differently to their experiences of bereavement, and this should be understood and respected by both employers and colleagues.
- Grief is a very individual process, affecting people emotionally, psychologically, behaviourally, intellectually, physically and spiritually.
- There is no right or wrong way to feel following a loss. Some people seek help immediately by showing their emotions and talking to people; others prefer to deal with things slowly, quietly or by themselves.
- How employees are treated by their employer is likely to have a significant impact on how they handle the bereavement, and how employees feel towards their organisation and their work in general going forward.
- Bereavement policies and support should be holistic, long term and take into account individual circumstances.
- Employers should be knowledgeable about the law and bereavement, including parental bereavement leave and pay, and emergency time off for family and dependants.

How might a pregnancy or baby loss affect an employee at work?

Often people will use the terms 'bereavement leave' and 'compassionate leave' to mean the same thing. However, bereavement leave is specifically when an employee takes time off after the death of a loved one. Compassionate leave is broader and can include time off to look after a dependant, or a sick relative, or to deal with challenging personal circumstances.





















Sickness absence procedures and reporting

Employers should develop an absence management framework and culture that encourages genuine reporting of the reasons for sickness absence, whereby employees feel able to disclose why they need to take time off. The onus is on the employer to take practical steps to create a genuine reporting climate so appropriate support can be put in place.

Absence management training and guidance for line managers should include awareness about pregnancy/baby loss. Absence management policies and procedures should be flexible and take into account the potentially far-reaching impacts of experiencing this kind of loss, for both partners.

More information on the legal aspects relating to sickness absence and pay can be found in section 3.

Providing leave

The UK's statutory framework is very different for employees if they experience pregnancy or baby loss after 24 weeks of pregnancy compared with before 24 weeks, as outlined in section 3.

Organisations should think carefully about how they frame and communicate this statutory provision, as many employees who have lost a pregnancy or baby may find the terming of their statutory leave entitlement as 'maternity' or 'paternity' upsetting. There's also a need to be sensitive to how the person defines their own loss. For example, someone who loses their baby before 24 weeks may be very upset at the loss being referred to as a miscarriage, despite the legal definition.

There is a lack of employment protection for leave entitlement if an employee or their partner experiences pregnancy or baby loss before 24 weeks. Many employees who need time off in this situation will need to rely on the organisation's compassionate or special leave provision. This lack of statutory provision is reflected in the gap in different types of leave that our survey research⁶ found employers offer to employees in these circumstances.

Experiencing pregnancy or baby loss at any stage can be very challenging for someone's mental and emotional wellbeing as well as their physical health. To many people it will be experienced as a bereavement. Being offered time away from work to recover and to deal with the effects of their loss and grief can help individuals to deal with these impacts and hopefully remain in work.

'I felt rushed back to work as I'm only entitled to a total of four paid sick days per year before going on statutory sick pay. I don't think this policy had pregnancy loss in mind when it was put together.'

Respondent to the CIPD employee survey

Organisations need to think carefully about the amount of discretionary leave they can provide beyond the statutory minimum to support employees in these circumstances. This provision can include paid compassionate or special leave as well as time off for medical appointments, ensuring this provision aligns with the organisation's other leave provision, such as bereavement leave. To aid clarity, it could be helpful to term this leave entitlement as 'time off for pregnancy or baby loss' in the organisation's policy, if it has one, and communicate it as such across the workforce. It's also important for the policy to be flexible, reflecting the fact that people's needs for recovery and grief will vary from individual to individual. People should be able to take the leave when they need it, rather than in a block of one or two weeks, for example.





















Organisations should also consider extending their policy on leave entitlement to partners. It's good practice to be proactive and, for example, make it clear that partners are able to attend medical appointments with their partner to empower them to actually ask for/use the entitlement.

To promote an inclusive approach, a policy should make clear that it also covers adoptive parents, foster parents, intended parents and surrogates.

Another aspect to consider is proactively offering people access to emergency leave or, if they are eligible, to time off for dependants if a member of their family, such as a child, suffers a pregnancy loss.

A supportive return to work

If someone is off sick due to pregnancy or baby loss, their line manager should have a sensitive conversation with them about how best to keep in touch during their absence. It's also important to discuss whether or not the reason for absence will be shared with the team, which is the individual's decision.

Any keeping-in-touch conversations should be approached with empathy and without the employee feeling any pressure to return to work before they are ready. This could include indirect pressure, for example if no cover for tasks or workload is allocated.

The line manager should plan and carry out a return-to-work interview to help ease the employee back into work when ready. An effective return-to-work interview can build trust and engagement, and support a smooth and sustainable return to work. This should be planned before the employee returns so that they know what to expect and have the opportunity to think about any issues they would like to raise, such as potential adjustments.

Managers should make it clear that this is a supportive process to help the employee make a successful and lasting return to work, as well as address any ongoing health and wellbeing needs. It's important to remember that an employee returning after a loss like this could feel overwhelmed and self-conscious, particularly if they have been absent for a while. A key aim is to manage the employee's expectations about what is expected of them and help alleviate potential stress and anxiety. Many people would benefit from being eased back into work, for example by having a phased return or working from home, as well as possible adjustments to their workload and/or duties. It's also important to continue to check in with the employee regularly following their return as their needs may change.

The CIPD guide on managing a return to work after long-term absence sets out some guiding principles to follow when navigating the key steps to managing an effective return to work.

Workplace adjustments

It's good practice to consider making adjustments for any individual experiencing difficulties at work. Effective adjustments can be simple, low cost and make a significant difference to how well someone can function at work.

Organisations should develop clear guidance on making adjustments and incorporate specific examples of the kind of adjustments that could be helpful, such as workload or task adjustments, flexible working, reducing working hours temporarily or working from home.





















Adjustments should be considered in relation to a specific individual and their specific role. The aim is for the organisation to understand the barriers the employee is experiencing and put adjustments in place to resolve them. It's very important, therefore, that a manager involves the employee in discussions about adjustments that could help. One employee's experience will be very different from another's and so there is no uniform set of adjustments that an organisation can put in place.

It's also important to highlight the 'softer' range of adjustments that could make a difference, such as allowing for more frequent breaks or access to a quiet space.

Any guidance on adjustments should be promoted across the workforce but particularly targeted at line managers, who will typically have responsibility for having sensitive, supportive and informed conversations with employees about adjustments. The guidance should encourage managers to consider ways they can be flexible about how a job is done, and discuss options with the employee. The individual is likely to have the best ideas on what changes can make the biggest difference to how well they can do their job in the context of their health and wellbeing needs.

Working with occupational health (OH)

Typically, most organisations access OH support in a reactive way, when a particular sickness absence case is complex and/or becomes long term, for example. However, a lot of support an OH service can provide is proactive, aiming to create a supportive environment to promote good health and wellbeing. This includes contributing to the development of a well-informed framework to support employees who have experienced pregnancy or baby loss.

An employee who has lost a pregnancy/baby can also experience wider wellbeing impacts, including mental ill health. It's important that managers have access to expert OH advice where possible to help them understand the potential impacts of such a loss, and people's fitness to work. The specialist advice that OH can provide will be invaluable in helping managers to make tailored adjustments and support someone on an ongoing basis.

The CIPD's **factsheet on occupational health** is a useful resource.

Promote counselling services and EAPs

In our survey 22% of employee respondents mentioned access to a counselling service as a form of helpful support, which suggests a significant proportion of individuals would appreciate this kind of support.

If an employer has an EAP, the organisation needs to first check that it's able to support employees with experience of pregnancy/baby loss. The organisation should actively promote the support it can provide to employees, and also encourage managers to access expert advice via the EAP on how the workplace can provide compassionate and relevant support for people going through this kind of loss.

Even if an organisation doesn't have access to OH services and/or an EAP, every employer can signpost employees to external sources of specialist support, such as Tommy's and the <u>Miscarriage Association</u> (see <u>Useful resources</u> for other helpful links).





















Support if someone experiences pregnancy loss at work

It's possible that someone could miscarry at work or experience pregnancy-related symtoms that concern them.

If anyone is concerned about their pregnancy, if they feel something is wrong or they are worried about their baby, they should be encouraged to get medical help. The NHS has advice on the symptoms of pregnancy and baby loss and when/how to seek urgent medical help.

Organisations need to ensure that managers know how to respond if someone needs immediate support. If it's a medical emergency, they will need to go to hospital. Managers should offer practical support, such as asking the employee if they can contact the employee's partner or other family member or friend, as well as calling an ambulance or taxi. Depending on the circumstances, the individual is likely to feel very distressed and will need emotional support.

If an employee finds out that their partner is losing a pregnancy/baby, or is experiencing worrying health symptoms related to pregnancy, they will want to leave work to be with them. The organisation should make provision for this in their policy or guidance.

Guidance on how to support someone who experiences pregnancy or baby loss at work should be included in any relevant policy so that line managers and colleagues know how to respond.

7) Promote good people management

Much of the day-to-day responsibility for supporting people's health and wellbeing at work falls on line managers. They are responsible for implementing the policies and workplace adjustments that can help people to balance work responsibilities with challenging personal and wellbeing issues. A line manager will typically be the first point of contact if someone needs to discuss their health concerns and/or access support. It's therefore essential that managers are knowledgeable about the organisation's framework for supporting people who have experienced pregnancy or baby loss.

However, the role of line managers is to offer support and not solutions. Line managers shouldn't be expected to be experts on the issue, or act as counsellors. Their role is to help employees with the work aspects of the situation and ensure that work is not part of the problem. Therefore, organisations should ensure that line managers understand the boundaries of their role, as well as when and how to make helpful adjustments and signpost to specialist support where needed.

Training

Training and development interventions aimed at managers, such as diversity and inclusion training and management development programmes, should include information and advice about managing in a way that supports employee health and wellbeing. This can help managers to support employees and signpost to expert sources of help. Specific guidance should include a broad understanding of pregnancy or baby loss and how such an event can potentially affect people, including their interaction with work.



















HR professionals should ensure that line managers:

- feel comfortable and competent to have empathetic conversations about sensitive and personal issues like pregnancy and baby loss
- · understand how to maintain clear boundaries they need to be clear on what their role is and isn't when supporting a colleague
- have ready access to appropriate support for their own health and wellbeing needs, and know where to turn if they feel unable to effectively support a team member following pregnancy or baby loss
- can access training at the point of need so that when they need to support someone through loss they are able to access the specific information and guidance at that point in time (instead of trying to recall a one-off training event they attended a year ago)
- understand how to respond if someone experiences pregnancy or baby loss at work and needs immediate medical help
- be knowledgeable about how the absence management framework and leave provision can support someone in these circumstances
- understand what kind of work adjustments may be helpful
- are confident to signpost to expert sources of support such as OH, EAP, external support charities or GP services.

Offer flexible working

Being able to negotiate flexible working hours or practices could make a significant difference in helping someone who has experienced such a challenging and upsetting event. These include reduced hours, taking extra breaks during the working day, and working from home where possible.

Other ways that working life can be made more flexible for someone include:

- reducing workload
- ensuring they are not working excessively long hours
- allowing them to switch to different tasks on bad days
- permission to excuse themselves from triggering situations
- enabling them to work flexible hours and/or at home, especially on bad days or if sleep is poor.

Because every experience of pregnancy or baby loss is unique, it's important that HR professionals and managers are able to discuss flexible working solutions on a case-bycase basis, tailored to the needs of the individual. Organisations need to be more creative and proactive in thinking about the kind of flexibility that can support people with different wellbeing needs, and educate managers so that they are confident about discussing a range of flexible options and managing different working arrangements.

The CIPD's **resources on flexible working** are a good source of information.

Manage performance positively

There should never be assumptions about someone's ability to perform to a high standard, but it should be recognised that employees who are dealing with loss and bereavement can experience a range of ongoing health and wellbeing issues. Employers need to understand that performance can be impacted.





















Addressing the stigma and silence about pregnancy and baby loss means fostering an inclusive and supportive culture, and policies and practices such as performance management also have an important role to play. It's important to remember that performance management should, in essence, be a positive process and focus on the support needed to help everyone perform to the best of their ability, including taking on board any underlying health and wellbeing issues. The design and implementation of an organisation's performance management system should be based on this premise.

The CIPD's <u>resources on managing performance</u> provide more information.

Support for managers

An organisation's framework for supporting employees following pregnancy or baby loss should recognise that line managers themselves may need some support. It's worth considering what specific resources are available to line managers and what they can do to look after their own wellbeing. Managers should have access to EAP/OH services if organisations have them, and if not, you should point them to external helplines.

Further, a line manager may not feel equipped to support someone who has experienced this kind of loss. The employee may also want to have a conversation or seek support from someone in addition or as an alternative to their line manager. The organisation's policy and/or guidance should therefore offer other named contacts in the organisation, such as HR, who the employee can approach.

8) Conclusion: five principles of good practice

We hope this guidance will inspire organisations to build compassionate workplaces with effective support for employees experiencing pregnancy or baby loss. Here's a reminder of our five principles to help you design the support that would be most helpful to your employees.

- 1 Raise awareness about the need for pregnancy or baby loss to be recognised as an important workplace wellbeing issue.
- 2 Create an open, inclusive and supportive culture.
- 3 Develop an organisational framework to support employees.
- 4 Manage absence and leave with compassion and flexibility.
- 5 Equip line managers to support people with empathy and understanding.





















9) Useful resources

Miscarriage Association: provides free support and information to anyone affected by miscarriage, ectopic or molar pregnancy, via its helpline, live chat and email services and through in-person and online support groups.

Tommy's: the UK's largest pregnancy and baby charity, funding research and supporting parents through pregnancy complications, miscarriage, stillbirth and premature birth. Tommy's offers pregnancy and baby loss e-learning modules for people managers and HR toolkits to build support for employees through any pregnancy journey, including those that end in loss. Visit Tommy's pregnancy and parenting at work hub for more information.

ARC (Antenatal Results and Choices): helping parents and professionals through antenatal screening.

AtaLoss: the UK's signposting website for the bereaved. They can help with finding bereavement services and counselling

Bliss: Bliss is a charity for babies born premature or sick. It includes resources relating to pregnancy or baby loss.

Fertility Matters at Work: Fertility Matters at Work exists to educate and inspire businesses with an awareness of how fertility issues affect both their employees and their organisation.

Fertility Network UK: Fertility Network UK provides information, advice, support and understanding and has an information and support line.

Mind: Mind provides advice and support to empower anyone experiencing a mental health problem. They campaign to improve services, raise awareness and promote understanding.

National Bereavement Care Pathway (NBCP) for pregnancy and baby loss: led by Sands, the NBCP seeks to improve the quality and consistency of bereavement care received by parents from the NHS after pregnancy or baby loss.

NHS: Miscarriage.

PANDAS HR toolkit: for businesses and organisations to support employees who may be affected by perinatal mental health conditions.

Petals: Petals is a baby loss counselling charity.

Sands: Sands is a stillbirth and neonatal death charity in the UK. Sands exists to reduce the number of babies dying and to ensure that anyone affected by the death of a baby receives the best possible care and support for as long as they need it.

SAMH: SAMH is the Scottish Association for Mental Health. It operates in communities to provide a range of mental health support and services.

The Compassionate Friends: The Compassionate Friends offers a range of services supporting bereaved parents and their families, including specific support around pregnancy and baby loss.

The Lullaby Trust: The Lullaby Trust raises awareness of sudden infant death syndrome (SIDS), provides expert advice on safer sleep for babies, and offers emotional support for bereaved families.













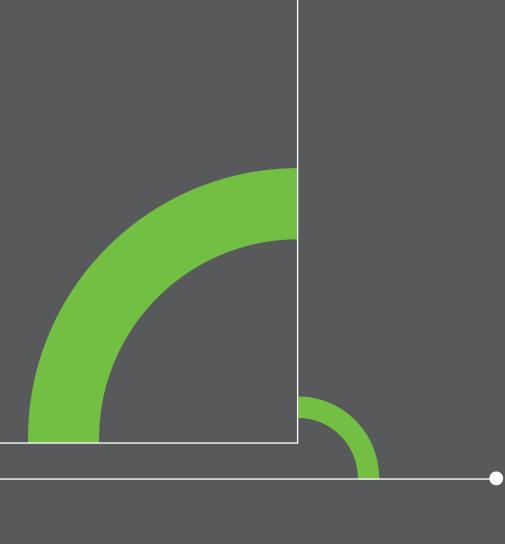






10 Endnotes

- ¹ <u>Tommy's</u> and <u>Miscarriage Association</u>. See Box 1 on page 3 of the CIPD report, *Workplace Support for Employees Experiencing Pregnancy or Baby Loss.*
- ² See Figure 11 in the CIPD report, <u>Workplace Support for Employees Experiencing</u> Pregnancy or Baby Loss.
- ³ See Figure 13 in the CIPD report, <u>Workplace Support for Employees Experiencing</u> Pregnancy or Baby Loss.
- ⁴ See Figure 1 in the CIPD report, <u>Workplace Support for Employees Experiencing</u> <u>Pregnancy or Baby Loss.</u>
- ⁵ See Figure 9 in the CIPD report, <u>Workplace Support for Employees Experiencing</u> Pregnancy or Baby Loss.
- ⁶ See Figure 7 in the CIPD report, <u>Workplace Support for Employees Experiencing</u> <u>Pregnancy or Baby Loss.</u>





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Issued: December 2022 Reference: 8275 © CIPD 2022