

COM(2000) 466 final/2

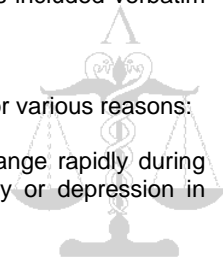
Guidelines on the assessment of the chemical, physical and biological agents and industrial processes considered hazardous for the safety or health of pregnant workers and workers who have recently given birth or are breastfeeding (Council Directive 92/85/EEC)

The above guidance contains specific reference to managing stress at work. This is included verbatim below. It may be that it was originally written in some other language.

*Risk Factors:*

"New and expectant mothers can be particularly affected by occupational stresses, for various reasons:

- hormonal, physiological and psychological changes occur and sometimes change rapidly during and after pregnancy, sometimes affecting susceptibility to stress, or to anxiety or depression in individuals;
- financial, emotional and job insecurity may be affected by the changes in economic circumstances brought about by pregnancy, especially if this is reflected in workplace culture;
- it may be difficult to combine work and private life, especially with long, unpredictable or unsociable working hours or where other family responsibilities are involved;
- possible exposure to situations involving violence at the workplace.



If a woman is exposed to the risk of violence at work during pregnancy, when she has recently given birth or while she is breastfeeding this may be harmful. It can lead to detachment of the placenta, miscarriage, premature delivery, underweight birth and it may affect the ability to breastfeed.

This risk particularly affects workers in direct contact with customers and clients.

Additional work-related stress may occur if a woman's anxiety about her pregnancy, or about its outcome (e.g. where there is a past history of miscarriage, stillbirth or other abnormality) is heightened as a result of peer group or other pressure in the workplace.

Stress is associated in some studies with increased incidence of miscarriage and pregnancy loss, and also with impaired ability to breastfeed.

Women who have recently suffered loss through stillbirth, miscarriage, adoption at birth or neonatal death, will be especially vulnerable to stress, as will women who have experienced serious illness or trauma (including Caesarian section) associated with pregnancy or childbirth. However, in certain circumstances, returning to work after such events may help to alleviate stress, assuming a sympathetic and supportive work environment.

*Protective measures:*

"In laying down measures, employers will need to take account of known stress factors (such as shift patterns, job insecurity, workloads, etc.) and the particular medical and psychosocial factors affecting the individual woman.

Protective measures may include adjustments to working conditions or working hours, and ensuring that the necessary understanding, support and recognition is there when the woman returns to work, whilst her privacy is also respected."

*Legal Background:*

"Framework Directive 89/391/EEC is applicable."

Comment

There are many difficulties with this guidance. Not least is the difficulty of the subject matter, pregnancy and parenthood is generally regarded as deserving of particular care, there is little to be gained by finding fault with well-intentioned populist guidance.

Adapting systems of work to the needs of foreseeably vulnerable workers is an accepted duty.

A brief review of recent literature finds that medically advised work absence during pregnancy is quite common in the USA. It is justified by swelling, fatigue or work stress, as diagnosed by nurses. More objective research finds that blood pressure is raised while at work (2 mmHg) especially if the work is perceived as stressful. However, stress associated hormones remain unchanged. Fatigue gets a harsh press but marital status seems to be the strongest indicator of problems in pregnancy.

The guidance is difficult to interpret into the terms required for statutory risk assessment in the UK and the common law duty of care. For example,

“financial, emotional and job insecurity may be affected by the changes in economic circumstances brought about by pregnancy, especially if this is reflected in workplace culture;”

Is the Safety Officer required to assess financial, emotional and job insecurity resulting from changes in economic circumstances? Is it legitimate for the question to be asked? If changes in economic circumstances are to be accepted in the case of pregnant women, why not everyone?

There are also problems with accuracy of risk assessment. There is anecdotal evidence that a woman's feelings during pregnancy are not entirely negative. The balancing effects of joy at being pregnant, increased social inclusion, support from peers and supervisors, greater bond between the parental partnership are not mentioned. Has anyone studied the interaction of these influential factors? Apparently not [Pediatric. Perinat. Epidemiol. (2001) Vol.15: p30] Is it reasonable for these factors to be accounted for when assessing a workplace duty of care, particularly when caused by changes in economic circumstances? How can they be measured?

Overall the guidance has the effect of requiring employers to be sensitive to the needs of pregnant/recently pregnant employees.

The legal background presents some problems:

- a) the issues may be closer to Employment Rights and Human Rights than they are to occupational health and safety.
- b) a precautionary standard seems to apply, this may not be relevant to civil law.
- c) the framework directive does not qualify the requirement to eliminate risk; reasonable measures are not good enough, yet are required by this guidance.

The proposed protective measures seem entirely reasonable (even though they probably are not supported by research evidence from intervention studies) except that they do not list the benefits of pregnancy as part of a risk assessment.

The recommended control measures do not exactly correspond with the stated risk factors, it is doubtful that listing of speculative risk factors is entirely necessary or helpful.

