

Equality Act Review Campaign Policy Briefings

To inform Government and Parliamentary Debate

Why Miscarriage needs to be protected in the Equality Act 2010

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Background

Miscarriage is the loss of a pregnancy prior to viability (24 weeks). It is a common experience for women, with around 44 miscarriages taking place every minute worldwide and 1 in 5 pregnancies ending in a miscarriage (Miscarriage Association, 2022; The Lancet, 2021). Many women experience miscarriages, and they can happen to anyone, with 1 in 100 women in the UK experiencing 3 or more miscarriages (Tommy's Association, 2022). Whilst experiencing miscarriage may not impact an individual's ability to carry a child to full term in the future, there are higher risks associated with future pregnancies (Quenby et al, 2021). Furthermore, women who experience a miscarriage are more likely to experience long term psychological impacts such as depression, anxiety and post-traumatic stress disorder (Quenby et al, 2021). This is clearly a prevalent issue for many women, yet it is something that is largely unprotected in legislation, especially within the Equality Act 2010.

Current Protection:

Under the current legislation, Miscarriage prior to 24 weeks (the point of vitality) of pregnancy is neglected. In Sections 18 and 72- 76 of the Equality Act 2010, women who miscarry prior to 24 weeks of pregnancy are only entitled to sick leave and protection from discrimination for up to two weeks after the loss of pregnancy. This is conditional however on informing the employer of the

pregnancy. The length of sick leave and amount of sick pay provided to the individual is again conditional on the employer's opinion. Under the same section, If the pregnancy is lost after 24 weeks, the woman is entitled to maternity pay and maternity leave, and protection from discrimination until the end of their maternity leave. This is a very limiting legislation that affords women who miscarry few rights, and little time to process the emotional stress of a miscarriage.

Recommendations:

We recommend that **miscarriage is protected from 12 weeks onwards**, which would halve the current point of vitality from 24 weeks. We also recommend that from the 12 week point that women are given the option to take maternity leave as opposed to only sick leave, and that they also receive protection from discrimination until the end of the maternity leave.

These interventions would help address the emotional turmoil that many women experience as a result of a miscarriage, and ensure that they are able to return to work when they feel ready to. This would also make the workplace a more inclusive environment, allowing women to work at their full productive capacity, which is in the best interest of employers.

Sources:

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THE EQUALITY
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