

THE DANISH  
INSTITUTE FOR  
HUMAN RIGHTS

## DISCRIMINATION AGAINST PARENTS

EXPERIENCES OF  
DISCRIMINATION IN  
CONNECTION WITH  
PREGNANCY AND  
PARENTAL LEAVE



## **DISCRIMINATION AGAINST PARENTS – EXPERIENCES OF DISCRIMINATION IN CONNECTION WITH PREGNANCY AND PARENTAL LEAVE**

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# SUMMARY

In Denmark, women take much more parental leave than men do. The survey presented in this report shows that this pattern is strongly related to financial circumstances. It also shows that more than 20 per cent of the men questioned had taken less parental leave than they had wished to. Primarily because of financial factors, but also because of their partner's wish to take the remainder of the shared parental leave.

Danish legislation protects parents against discrimination on the labour market in connection with pregnancy and parental leave. Despite this, discrimination still occurs.

This report shows how and to what extent parents and expecting parents experience discrimination on the labour market when they decide to have children and take parental leave.

The analyses in the report are based on a survey of the experiences of 1,589 people, on interviews with 18 parents or expecting parents, and on interviews with six employer representatives from large organisations.

## **BOTH MEN AND WOMEN EXPERIENCE DISCRIMINATION, BUT ESPECIALLY WOMEN ARE AFFECTED**

According to the survey, nearly half of all women, and a quarter of men, experience one or more types of discrimination in the workplace in connection with pregnancy and parental leave. As such, this type of discrimination is extensive, and especially women are affected.

Analysis of the interviews shows that there are examples of employers that ask questions about pregnancy at job interviews, even though the legislation on equal treatment requires employers to treat men and women equally when recruiting. This means that when recruiting staff, employers must do so regardless of gender-related issues, for example information about pregnancy. According to legal practice, women have no duty to disclose that they are pregnant. Therefore, an employer asking about pregnancy would be considered a breach of the law. In a similar manner to the interview analyses, the quantitative survey shows that one in six of all women that had been to a job

interview has been asked if they were pregnant or if they were planning to have a child.

### **LESS ATTRACTIVE WORKING CONDITIONS**

When female employees inform their workplaces that they are to become parents, one in five women experience that their working conditions become worse. A few experience that their working conditions are changed for legitimate safety considerations, but others experience that their working conditions are changed to enable the employer to deal with problems caused by possible sick leave related to pregnancy.

One in nine women experience negative reactions from their managers in the wake of announcing that they plan to have children. Several of the interviewees have experienced that managers react with verbal bursts of anger, changes to contracts or dismissals. Male interviewees that were to start parental leave had been met by comments from male colleagues about how they should “enjoy their holiday”, whereas female colleagues were positive.

There is a large variation in the extent and type of contact that the interviewed employees have with their workplaces during parental leave. Some limit the contact as much as possible, while others consciously ensure an on-going dialogue to ensure that they are not forgotten and sidelined career-wise. The survey shows that one fifth of respondents feel that they do not receive adequate information on important issues such as reorganisations and salary negotiations at their workplace during their parental leave.

### **NEW TASKS AND JOB CHANGES AFTER PARENTAL LEAVE**

One in seven women in the survey do not return to the same employer after their parental leave. Many of the women explain that, among other factors, this is because they had been treated badly at work during their pregnancy. The HR staff that were interviewed acknowledge that there are challenges in retaining employees that take parental leave, and they suggest that part of a solution to this could be a coaching programme. Among women that return to their workplaces, 12 percent are given new tasks, even though they do not wish for new tasks. A number also experience less attractive working conditions, in that they have less responsibility or are demoted.

When employees experience that their working conditions change for the worse both before and after parental leave, a number of the interviewed employees contacted their trade unions or trade union representatives. In these cases the employees experienced a big difference in the quality of the support and guidance they received.



If a common, recurring experience is to be drawn from the employees' stories, then it is that the discrimination they have experienced has been personally frustrating, tough and has resulted in lasting changes in their working lives.

## **RECOMMENDATIONS**

The Danish Institute for Human Rights recommends that:

1. The social partners and the Danish government produce an action plan for an information campaign on the rights and duties in connection with pregnancy and parental leave, to reduce the number of employees that experience discrimination.
2. The Danish government and the social partners promote a more equal distribution of parental leave between men and women.
3. An employee and their manager have a 'parental leave talk' before the parental leave starts. At this talk, a post-leave career plan for the employee should be made.
4. Employee organisations ensure their case officers and trade union representatives are qualified and competent in giving advice and personal support when they are met with enquiries about discrimination on the labour market in connection with pregnancy and employees taking parental leave.
5. The Ministry of Employment specifies in the Act on Equal Treatment of Men and Women as regards Access to Employment and Maternity Leave, etc. that, during a job interview, an employer may not ask questions about pregnancy and parental leave

# CHAPTER 1

## INTRODUCTION

This report shows how and to what extent parents and expecting parents experience discrimination on the labour market when they decide to have children and take parental leave.

In addition to the discrimination these individuals experience, the analyses shed light on some of the choices parents make when they have a child, for example, how much leave each parent chooses to take.<sup>1</sup> The overall intention of the report is thus to put focus on gender equality in the debate about discrimination in connection with pregnancy and parental leave.

Issues such as these can be approached from different angles. The Danish Institute for Human Rights has chosen to take an empirical approach based on a set of data collected for this specific analysis. We have thus talked to several individuals about how they have experienced discrimination on the labour market in connection with pregnancy (including situations where their employer assumed they were pregnant) and parental leave. The empirical data consist of two parts: The first part is a quantitative survey that identifies the extent and frequency of experienced discrimination. The second part is a qualitative interview analysis based on detailed conversations with men and women and employers, the objective of which was to elucidate what is going on in the situations where employees experience discrimination as identified in the quantitative survey. The two parts of the data share the same overall focus, namely experienced discrimination in connection with a job interview, being pregnant and employed, being absent from work during parental leave and returning to work after parental leave.

It is a well-known fact (e.g. the Norwegian Equality and Anti-Discrimination Ombudsman 2015, the Board of Equal Treatment 2014, Bloksgaard 2009) that pregnancy and parental leave may lead to less attractive working conditions, disadvantages and inconveniences for working parents – and may ultimately cost parents their job. Individuals are protected against more or less all of the above acts of direct or indirect discrimination through legislation on gender equality. Thus this analysis focuses on the experiences of parents and expecting parents

and the choices they make during pregnancy, during parental leave and when they return to work.

### **1.1 WHY IS THIS AN IMPORTANT AREA FOR GENDER EQUALITY?**

Due to the high rate of employment among its working-age population, Denmark has one of the highest labour market participation rates in Europe. The country's high ranking is especially due to the great number of women who work in Denmark. This trend is both positive and vital for gender equality. However, even though both men and women are active on the labour market, the duration of their absence from the labour market in connection with starting a family differs greatly. On average women in Denmark take 271 days of parental leave, whereas men take 30 days. These figures have been relatively stable over the past few years (figures from 2012, see Statistics Denmark 2015a, 2015b). In Denmark, men take less parental leave than men in Iceland, Norway and Sweden, countries with which Denmark is often compared. This may be because a bigger portion of parental leave is reserved for men in these three countries than in Denmark (Krogh 2014).

One thing is how men and women share parental leave, another is the consequences of how the length of their parental leave affects their opportunities on the labour market. Gender research (see e.g. Bloksgaard 2009) indicates that pregnancy and parental leave are significant factors for especially women's career opportunities – and thus also for gender equality. Similarly, an anthology published by the Danish National Centre for Social Research points to “women's long maternity leave as the primary reason why female professionals get stuck in their careers and why we still do not have equal pay in Denmark” (Laneth 2010, page 38). That is, parental leave and the unequal distribution of this leave between men and women determine gender equality.

This report elucidates and analyses whether and how men and women experience that starting a family and taking parental leave has had any negative effects on their professional life.

### **1.2 STRONG LEGISLATION REGARDING PREGNANCY AND PARENTAL LEAVE**

The strong legislation in this area demonstrates the fact that an employee's absence in connection with pregnancy and parental leave represents a potential conflict of interests between the employee and the employer. As such, employees in Denmark who are pregnant or on parental leave are protected by national legislation, primarily the Equal Treatment of Men and Women Act, the Parental Leave Act and the Equal Pay Act, and by international legislation in the

form of EU and UN regulations. This legislation, which protects the individual against discrimination in connection with pregnancy and parental leave, is seen as a fundamental and important means to achieving real equality between men and women.

Denmark has an independent board of equal treatment that tries both labour-market-related and non-labour-market-related cases. Individuals can have their case tried by the board at no cost, and this ensures that everyone has equal access to having cases about discrimination assessed (website of the Board of Equal Treatment 2015a). The most recent annual report of the Board of Equal Treatment shows that the statutory protection of men and women's rights with regard to pregnancy and parental leave is warranted: the Board ruled in favour of complainants 38 times in 2014 (the Board of Equal Treatment 2015b). In 2013, the majority of the cases brought before the Board concerned discrimination in connection with pregnancy and parental leave (the Board of Equal Treatment 2014, page 19). However, the number of cases tried by the Board cannot be taken to be representative of how often parents in Denmark in general experience discrimination in connection with pregnancy and maternity leave.

### **1.3 NATIONAL EQUALITY BODY FOR GENDER**

The Danish Institute for Human Rights is Denmark's national equality body for gender. The Danish Institute for Human Rights is tasked with promoting and supporting gender equality with the aim of preventing discrimination based on gender. To do this, the Danish Institute for Human Rights conducts independent analyses which lead to suggestions and recommendations for how to promote equal treatment. Moreover, the Danish Institute for Human Rights engages in dialogue with relevant actors that can contribute to achieving this objective.

As Denmark's equality body for gender, the Danish Institute for Human Rights has taken the initiative to map the extent of experienced discrimination in connection with pregnancy and parental leave, because this has not been done before in Denmark. This mapping has been followed-up with a series of qualitative interviews with employees and employers.

### **1.4 CLARIFICATION OF CONCEPTS AND SCOPE**

In the following we define how we have used the key concepts and understandings on which the analyses are based and that are used throughout the report.

#### 1.4.1 EXPERIENCED DISCRIMINATION

The analyses in this report build on an understanding of **experienced discrimination** for which there are two definitions. The first definition is the one used by the Danish National Centre for Social Research (VIVE): “Experienced discrimination is also referred to as ‘subjective discrimination’, and expresses an experience of having been subject to unfair differential treatment either by fellow citizens or on the basis of conditions in society” (Jensen et al. 2012, page 26). The second definition rests on an understanding of experienced discrimination as “indirect discrimination [...] in which a rule or practice which appears neutral has a negative impact upon a person or a group of persons who display a specific characteristic. The author of the rule or practice may be unaware of these repercussions” (Danowitz, Hanappi-Egger & Mensi-Klarbach, page 289).

Based on these two definitions, this report builds on an understanding of experienced discrimination as a situation where a person feels that they have been treated unfairly or have been given unfair conditions compared with other individuals.

In the study, participants were asked about their experiences with regard to a number of specific areas for which relatively clear legislation exists. They were also asked about their experiences regarding specific situations that are lawful when seen from a legal perspective, but that can be seen as problematic when seen from a gender equality perspective.

For example, it is illegal for an employer to decide against hiring a female applicant for a job based on the fact that, during a job interview – regardless of whether she was prompted to or not – the woman tells the employer that she is pregnant. Another example of how equality between the sexes is hindered is when a pregnant woman refrains from applying for a position based on the assumption that the employer will not choose to hire a pregnant applicant.

It is important to underline that the conditions examined in this report are not necessarily examples of discrimination legally speaking. The analyses are based on personal experiences, that is, they are examples of subjective experiences, in accordance with the VIVE definition mentioned above. Having said that, we know that many unlawful acts – for reasons that are not included in this report – go unnoticed, are not prosecuted or do not lead to a conviction.

#### 1.4.2 PARENTAL LEAVE

When we use the term **parental leave** in this report, we use it to refer to all the different types of leave parents can take in connection with pregnancy and

becoming a parent. In the quantitative survey and interview analysis, we do not distinguish between the different types of leave. Sometimes we simply use the term **leave** when referring to parental leave. However, in Chapter 2, which deals with the legal framework, we use the specific technical terms that are used in the relevant legislation.

### 1.4.3 DISCRIMINATION AND DIFFERENTIAL TREATMENT

The term **discrimination** is used to refer to the negative experiences of the participants, whereas **differential treatment** is used when referring to the actual legal act in which this term is used (as is the practice used in Andersen, Nielsen, Precht & Tvarnø 2015).

In Chapter 4 about the experiences of employees, when we use the terms **women** and **men**, we are referring to the 13 women and five men who were interviewed by the Institute. In Chapter 5, the findings are based on interviews with HR staff from three private-sector workplaces and from three public-sector workplaces.

## 1.5 READING GUIDE

The report is structured in such a way that each chapter can be read independently.

Chapter 1 introduces the area examined in this report. The chapter describes how discrimination in connection with pregnancy and parental leave is central to the discussion of equality between men and women. Moreover, this is where we define what is meant by experienced discrimination. In Chapter 2 we first present an overview of relevant international legislation and then present relevant national legislation in the form of the Equal Treatment of Men and Women Act, the Equal Pay Act and the Parental Leave Act. Chapter 3 describes the methods used to collect the data on which the analyses are based. In this chapter we describe the interviewee selection process, the context in which the qualitative interviews were conducted, and other conditions. We also describe the method used for the quantitative questionnaire survey that was conducted by TNS Gallup.

Chapter 4 maps the experiences of 1,589 representatively selected individuals. This material constitutes the quantitative data on which the report is based. The 1,589 survey participants filled in a questionnaire about their experiences when looking for work before going on parental leave, during parental leave and after parental leave. The chapter ends with a broader description of the extent of experienced discrimination in connection with pregnancy and parental leave.

Whereas Chapter 4 provides an insight into the number of people who have experienced discrimination in connection with pregnancy and parental leave, Chapter 5 focuses on more specific examples of how employees have experienced this kind of discrimination in connection with, for example, a job interview, unnecessary changes to work-related tasks, changes made to employment contracts, involvement of the employee's trade union, and other more overall consequences for the individual's career. Chapter 6 provides an analysis of employer perspectives and practices organised in five themes: overall trends, recruitment, pregnant employees, employees on parental leave and employees returning to work after parental leave.

Finally, Chapter 7 presents the overall conclusions, summing up and comparing the results of the qualitative study (the interviews) and the quantitative survey (the questionnaire). This structure provides an understanding of how discrimination is experienced by the individual and how common these experiences are among the Danish population. The conclusion ends with a series of recommendations for initiatives and changes that can be made by key actors to prevent discrimination against pregnant women and parents on parental leave in Danish workplaces, and that can thus ultimately promote equality between men and women.

References and notes can be found at the end of the report.

# CHAPTER 2

## LEGAL FRAMEWORK

Both international and national legislation focus on protecting men's and women's rights on the labour market in connection with pregnancy and parental leave. Originally, the purpose of this legislation was to protect pregnant women and women who were on maternity leave due to their vulnerable position on the labour market compared with men. However, when men achieved the right to paternity leave, this protection was extended to also cover men, who are now also in a vulnerable position on the labour market if they choose to make use of their right to leave.

This chapter presents an overview of the most important labour law regulations for pregnancy and parental leave, including the regulations contained in gender equality legislation. For a more detailed overview of regulations and practice, see the literature on this area (e.g., Andersen, Hougaard, Nielsen, Precht, Rasmussen & Tvarnø 2016, Bardenfleth 2012).

### 2.1 INTERNATIONAL BACKGROUND

At international level, women's rights are provided special protection in the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and in the outcome document from the UN Fourth World Conference on Women "Platform for Action". In Denmark, legislation is primarily influenced by common European legislation.

The European Union has developed strong protection of equal rights between the sexes over the past 30 years. Regulations regarding matters of employment and occupation prohibit discrimination against men and women in general, and prescribe protection of women in situations where women are placed in a vulnerable position in connection with pregnancy and parental leave. The protective measures in connection with pregnancy and parental leave are seen as a fundamental and important means to achieving real equality between the sexes. What constitutes protection and what constitutes equal treatment remains an important discussion. Regulation in this area has developed from protecting women's rights as mothers to including the rights of both parents.



The Council Directive on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation<sup>2</sup> secures men and women general employment rights. The directive has primarily been implemented in Danish law in two acts: the Equal Treatment of Men and Women Act and the Equal Pay Act. These acts are described below. The regulations prescribe that women may not be treated unfavourably in connection with pregnancy or parental leave, and that when returning to work after parental leave, women have a right to return to the same job or a job at the same level with the same terms and conditions.<sup>3</sup> They also have the right to benefit from any improvements in their working conditions that they would have been entitled to in the period of their absence. In instances where men have been granted parental leave in the respective EU Member States, they must also be offered protection of their employment rights when they make use of this leave.

The Pregnant Workers Directive<sup>4</sup> provides a safe working environment as well as compulsory maternity leave and compensation for pregnant workers and for workers who have recently given birth or are breastfeeding.

Among other things, the Parental Leave Directive<sup>5</sup> secures both parents the right to four months of parental leave without pay.

## **2.2 DANISH LEGISLATION**

The most important instances of Danish legislation that protect workers against discrimination on the labour market in connection with pregnancy and parental leave are the Equal Treatment of Men and Women Act<sup>6</sup>, the Equal Pay Act<sup>7</sup>, and the Act on Entitlement to Leave and Benefits in the Event of Childbirth<sup>8</sup>, also referred to as the Parental Leave Act. The Equal Treatment of Men and Women Act and the Equal Pay Act more or less implement current EU regulations. The obligations stipulated in this legislation are not used when collective agreements secure the same obligations regarding equal treatment.

The following provides a brief description of the relevant regulations laid down in the acts in question.

### **2.2.1 THE EQUAL TREATMENT OF MEN AND WOMEN ACT**

The Equal Treatment of Men and Women Act provides men and women equal rights with regard to their working lives, when seeking employment, when in employment or during enrolment in a vocational training programme. As such, the law defines equal treatment as the prohibition of differential treatment based on gender in any of the mentioned areas. The prohibition applies to both

direct and indirect differential treatment, as well as harassment, including sexual harassment.

Direct differential treatment is when, based on gender, a person is treated less favourably than another person in a similar situation. Indirect differential treatment is when a provision, a criterion or a practice, which seems neutral, actually places a person of one gender at a disadvantage compared with a person of another gender. Indirect differential treatment may be legal if it serves a fair objective, and the means to achieving this objective are appropriate and necessary. The law stipulates that any kind of negative differential treatment in connection with pregnancy and during the first 14 weeks after a woman has given birth is considered differential treatment.

Employers have a duty to treat men and women equally in connection with recruitment, reorganisation of duties and promotion. This means that providing employees with less favourable working conditions in these situations in connection with pregnancy and parental leave is prohibited.<sup>9</sup>

#### **2.2.1.1 Recruiting**

The Equal Treatment of Men and Women Act requires employers to treat men and women equally, for example, in the recruitment process. This means that an employer must not base decisions about whom to employ on gender-specific criteria, for example, whether the applicant is pregnant.

On the basis of jurisprudence, it is assumed that pregnant women do not have a duty to inform about their pregnancy, nor about whether they are planning to become pregnant within the near future. As such, if an employer asks questions about pregnancy, or if an employer uses interview questionnaires containing questions about pregnancy in connection with an interview, this is regarded as a breach of the Equal Treatment of Men and Women Act (Andersen, Hougaard, Nielsen, Precht, Rasmussen & Tvarnø 2016, Andersen, Klingsten, Krarup, Petersen & Vejby 2011).<sup>10</sup>

The regulations do not clearly state that the employer may not ask questions about pregnancy. However, if employers can freely ask these kinds of question, there is a risk that such questions can in themselves lead to unfavourable treatment of some applicants on the basis of their pregnancy, and this is a breach of the Equal Treatment of Men and Women Act. This is because applicants who choose not to answer questions about pregnancy will be at a disadvantage in comparison with other applicants due to their unwillingness to answer.

Should an applicant offer information about being pregnant or planning parental leave, an employer must disregard such information when deciding whether to employ the given applicant. For example, employers may not base their decision not to hire a pregnant applicant on the grounds that the company is financially strained, nor may employers base such a decision on the grounds that the applicant cannot perform the job because she is pregnant.

#### **2.2.1.2 Working conditions**

The employer has a duty to treat men and women equally with regard to their working conditions, also in the event that the employee is dismissed.<sup>11</sup> Working conditions include working hours, the organisation of work, the distribution of tasks, and staff benefits. If an employer refrains from including an employee on parental leave in salary negotiations, this is considered discrimination. Working conditions are often laid down in individual contracts or collective agreements. Harassment, including sexual harassment, of pregnant workers is also discrimination.

The period in which the employee has been absent from work in accordance with the regulations of the Parental Leave Act must be included in the overall calculation of the employee's years of service. As such, it is considered discrimination if the period of time on parental leave is not included in the calculation of the employee's years of service. This means that an employee on parental leave will gain salary-scale seniority and will accrue seniority throughout their leave, which has a bearing on any periods of notice, anniversary bonuses and so on. However, conditions concerning pension are not covered by the Act.<sup>12</sup>

The Parental Leave Act stipulates that, when returning to work after parental leave, parents have a right to return to the same position or to a position at the same level with the same terms and conditions. They also have the right to benefit from any improvements in their working conditions that they would have been entitled to in the period of their absence.

When they return to work, parents can make a written request to their employer for changed working hours and patterns for a defined period. The employer must give a written response in which consideration is given to both the needs of the employer and the employee.

As seen in the above, both men and women are protected by current legislation; as such, men who make use of their right to parental leave enjoy protection of their employment rights. However, in practice, being absent from work whilst on

parental leave often leads to changes in the individual's working conditions, and in some cases these changes are for the worse, which is a breach of current regulations. Employees who are absent due to parental leave have a right to be informed about any changes made in their workplace while they are on leave so that they can compare the terms of their employment to the those of their colleagues.

### **2.2.1.3 Dismissal**

It is against the law to dismiss an employee based on the employee's request to make use of their right to parental leave or based on the employee's absence due to parental leave. It is also against the law to dismiss an employee based on the employee's request for changed working hours and patterns, or based on pregnancy, parental leave or adoption.<sup>13</sup>

In general, it is not against the law to dismiss a pregnant employee; however, it is against the law to dismiss a woman because she is pregnant or because of conditions related to pregnancy, including being lawfully absent from work. This means that it is also against the law to dismiss a pregnant woman due to pregnancy-related sickness, and any such pregnancy-related absence may not be included in the rules that regulate the right to dismiss an employee due to sickness. Moreover, an employer may not present the employee with less favourable working conditions as a consequence of the employee's absence.

Dismissal is against the law during a period where a woman is receiving fertility treatment, as well as during the entire pregnancy and the periods of leave that are laid down in the Parental Leave Act (see below). Moreover, an employee is protected against being dismissed in situations where the change was decided during the leave period but was first announced when the employee returns to work.

### **2.2.1.4 Burden of proof**

In cases where an employee is dismissed or given less favourable treatment, the burden of proof rests on the employer.<sup>14</sup>

A reversed burden of proof applies during the employee's pregnancy and during periods of absence related to pregnancy pursuant to the Parental Leave Act, see more below. The reversed burden of proof not only applies with regard to the pregnant woman but also to the expectant father, who is offered the same level of protection as the woman is during her pregnancy and during his subsequent leave.<sup>15</sup> The burden of proof also applies in cases where the employee is dismissed due to absence related to ante-natal examinations and in the

notification period in connection with taking periods of leave that have been postponed.

The employee is no longer protected against dismissal when they return to work after having used all of the leave to which they were entitled. If an employee is dismissed after this, the employer no longer bears the burden of proof that the dismissal is not related to the employee's absence, pregnancy or parental leave in general. However, if the decision to dismiss the employee was in fact made before the period of parental leave expired, the burden of proof remains with the employer.

If an employee feels unfairly treated in connection with the recruitment situation, a promotion, their working conditions, or in a connection with a vocational training programme or their dismissal following a period of parental leave, the employee and employer *share* the burden of proof.<sup>16</sup> This means that the employee must be able to establish that there is reason to believe that they are the victim of direct or indirect differential treatment. If the employee can establish this, the employer carries the burden of proof and must prove that there has in fact been no unlawful differential treatment.

The shared burden of proof also applies when an employer dismisses 1) an employee who is receiving fertility treatment, 2) an employee returning to work after parental leave who has no more leave left, and 3) an employee who is on leave pursuant to a collective agreement.

### **2.2.2 THE EQUAL PAY ACT**

The Equal Pay Act<sup>17</sup> stipulates equal pay for men and women who perform equal work or work of equal value. When assessing whether the work performed is of equal value, only relevant qualifications and other relevant factors such as the type of work, professional training and working conditions are considered (Andersen, Hougaard, Nielsen, Precht, Rasmussen & Tvarnø 2016).

The Equal Pay Act defines any form of less favourable treatment of a woman during her pregnancy and the 14-week maternity leave period she is entitled to after giving birth as direct differential treatment. It is not discrimination that the woman is not entitled to full pay during her maternity leave. This is because in this situation men and women are not comparable. Similarly, it is not seen as discrimination that a father is not entitled to leave four weeks before the expected week of childbirth and 14 weeks after the baby is born. Here, the rules are intended to protect the woman in the period after she has given birth and has become a mother, which is why men and women are not considered

comparable in this situation either. Men and women are not considered comparable until the fifteenth week after the child is born; from the fifteenth week after birth, discrimination is considered unlawful (Andersen, Hougaard, Nielsen, Precht, Rasmussen & Tvarnø 2016).

As mentioned, women are not entitled to full pay during their parental leave; instead, pursuant to the Parental Leave Act, they are entitled to a reasonable benefit, corresponding to the regular unemployment benefits. Many collective agreements secure the woman full pay or maximised pay for part of the leave period. If the woman is entitled to paid leave for the first 14 weeks, or if both parents are entitled to paid leave during the parental leave period, they are both entitled to, for example, standard pay rises in these periods.

### **2.2.3 THE ACT ON ENTITLEMENT TO LEAVE AND BENEFITS IN THE EVENT OF CHILDBIRTH, ETC.**

The right to absence in connection with pregnancy, childbirth and adoption, and the right to benefits during such absence are described in the Act on Entitlement to Leave and Benefits in the Event of Childbirth, also referred to as the Parental Leave Act. The Equal Treatment of Men and Women Act protects parents against discrimination in connection with the parental leave they are entitled to pursuant to the Parental Leave Act.

#### **2.2.3.1 The right to absence during pregnancy**

A woman is entitled to be absent for four weeks before the expected week of childbirth; this period is often referred to as “pregnancy leave”.<sup>18</sup>

A woman can be legally absent from work before this four-week period under certain conditions: 1) If she experiences complications during her pregnancy and continuing to work may pose a risk to her or her baby’s health.<sup>19</sup> 2) If the nature of her work entails a risk for the baby, or legislation prevents her from performing her job and her employer cannot offer her any other appropriate tasks.<sup>20</sup> These are different situations and it can be difficult for the employer and the pregnant woman to identify when what applies. Danish occupational safety and health regulations<sup>21</sup> stipulate that the employer must protect a pregnant employee against hazardous work by first assessing and then alleviating any health and safety issues at work. If this is not possible, the employer has a duty to reassign the pregnant employee to other tasks. If this is not possible, she can be legally absent from the workplace. Examples of the types of employee for whom such legislation applies are pregnant seafarers or flying personnel.

Moreover, the woman is entitled to absence in connection with ante-natal examinations that take place during working hours.

### **2.2.3.2 The right to absence after birth**

The mother is entitled to and has a duty to be absent the first two weeks after she has given birth, and she is entitled to be absent for the first 12 weeks after she has given birth (maternity leave). The father is entitled to two consecutive weeks of absence after the child is born (paternity leave). The father can agree with his employer to place these two weeks any time within the first 14 weeks after the child is born.<sup>22</sup> After the mother's maternity-leave period, that is, 14 weeks after the child was born, each parent is entitled to 32 weeks of absence (parental leave). However, the father can begin this leave period within the first 14 weeks after the child is born.<sup>23</sup> In accordance with the Parental Leave Act, parents have some leeway with regard to extending or postponing part of their parental leave.

Parents who adopt have the same rights as birth parents pursuant to the Parental Leave Act.<sup>24</sup> Moreover, a non-biological mother has the same rights as a father.<sup>25</sup>

### **2.2.3.3 Reporting obligation to the employer**

Pursuant to the Parental Leave Act, the employee has a duty to inform their employer when they plan to use their right to leave. The mother has a duty to give her employer three months' notice regarding her expected due date and whether she is planning to make use of her statutory right to pregnancy leave.<sup>26</sup> She also has a duty to notify her employer no later than eight weeks after she has given birth of when she will return to work in the event that she goes on parental leave.<sup>27</sup>

No later than four weeks before the leave period begins, fathers and non-biological mothers have the same duty to notify their employer whether they wish to take paternity leave and how long they will be on leave.<sup>28</sup>

If both parents wish to take parental leave, they must notify their respective employers of this, and how long the leave period is, no later than eight weeks after the mother has given birth.<sup>29</sup> Similarly, the employer must be notified if a parent wishes to postpone part of their parental leave.<sup>30</sup>

### **2.3 SUMMARY OF THE LEGAL FRAMEWORK**

Both national and international legislation offer strong protection of pregnant women and women who have recently given birth as well as expectant fathers in connection with the labour market. The Equal Treatment of Men and Women Act offers protection in general against differential treatment in the workplace and specifically protects workers against dismissal in connection with pregnancy and parental leave.

In accordance with the Equal Treatment of Men and Women Act, employers must treat men and women equally, for example, when recruiting. This means that, when recruiting employees, the employer may not take circumstances related to gender into consideration, for example, information about pregnancy. According to legal practice, women have no duty to disclose that they are pregnant. Therefore, if an employer asks questions about pregnancy and parental leave, this is considered to be a breach of the law. If such questions are asked anyway, the employer may not take the answer into consideration when deciding whom to recruit.

In the event of pregnancy, employees are protected by the reverse burden of proof. This applies until the end of the parental leave period. The Parental Leave Act lays down clear rules regarding parental leave: the length of the leave period, when an employee is entitled to this leave, and when an employer must be notified of the leave.

When the leave period is over, the employee is entitled to return to the same or similar working conditions as they had before they went on leave.



# CHAPTER 3

## METHODS

Bearing in mind that the objective of this report is to show how and to what extent parents and expecting parents experience discrimination on the labour market when they decide to have children and take parental leave, it makes good sense to collect information from individuals who have first-hand experience of this.

Within the field of social science, there are several methods that we can use to collect this kind of knowledge. In general, these methods can be split into two groups: 1) quantitative methods, e.g. questionnaires that focus on 'how many/how much' based on responses from a large number of individuals; and 2) qualitative methods, e.g. interviews that typically focus on 'how and why' based on input from a smaller number of individuals. Both approaches have advantages and disadvantages. As such, a combination often results in a more robust study design with valid and reliable data that allows for more in-depth and comprehensive analysis (e.g. Neumann, 1997).

To enable us to present recommendations that will lead to change (see Chapter 7), we have chosen a combination of the two methods, which will provide as well-founded an analytical base as possible, including knowledge about the extent and content of experienced discrimination. That is, we have chosen to collect data via a) questionnaires, where a representative sample of the Danish population contribute with their experiences, and b) in-depth interviews with individuals who have experienced discrimination themselves in connection with pregnancy and/or parental leave, and with HR staff who work in a public sector organisation or a private company. In relation to the quantitative survey, prior to this survey no knowledge about how many Danes have experienced discrimination in connection with pregnancy and parental leave existed.

### **3.1 METHODS USED IN THE QUANTITATIVE SURVEY**

To examine how common experienced discrimination is in Danish workplaces in connection with pregnancy and parental leave, the Danish Institute for Human Rights has asked parents in Denmark about their experiences. When collecting these data, the Institute chose to partner with TNS Gallup, who has experience

and expertise in applying this method. The Danish Institute for Human Rights prepared the wording of the questions based on a similar Norwegian survey (the Norwegian Equality and Anti-Discrimination Ombudsman 2015), and TNS Gallup did a quality assurance review of the Danish questions before presenting them to a representative sample of parents to children born in 2008 or later, or who were expecting a child. TNS Gallup thus guarantees the method used and the quality of data.

### **3.1.1 COLLECTION OF STATISTICAL DATA**

Data were collected in the period from 30 April 2015 to 17 May 2015. In total 1,589 men and women completed the online questionnaire they were sent.

The survey's target group was Danish citizens 18 years of age or older and who were either expecting a baby or had become a parent in the period from 2008 to 2015. The sample is representative for the gender of the parents and the region of Denmark in which they live. It is based on data from Statistics Denmark regarding the distribution of children born in the period in question based on the assumption that there is an equal distribution of gender.

The method used was web interviews with respondents selected from TNS Gallup's GallupForum. The questionnaire was sent to a stratified sample based on the target group, that is, to panellists with children aged between 0 and 7. TNS Gallup began by screening part of the sample to ensure that all the participants who were contacted matched the defined target group. After the questionnaire was sent to the participants, those who did not respond were reminded by telephone. This was to ensure that the number of participants in the survey exceeded 1,500.

Data from the survey were weighted against the expected composition of the group. This weighting means that responses from men and women were not weighted equally in that more women than men participated in the survey (see the section "About the respondents" below). As a consequence of this weighting, responses from men and women are given equal value in the category "Total". The Danish Institute for Human Rights only received the weighted data from TNS Gallup, and the analysis is based on this data.

### **3.1.2 ABOUT THE QUESTIONNAIRE**

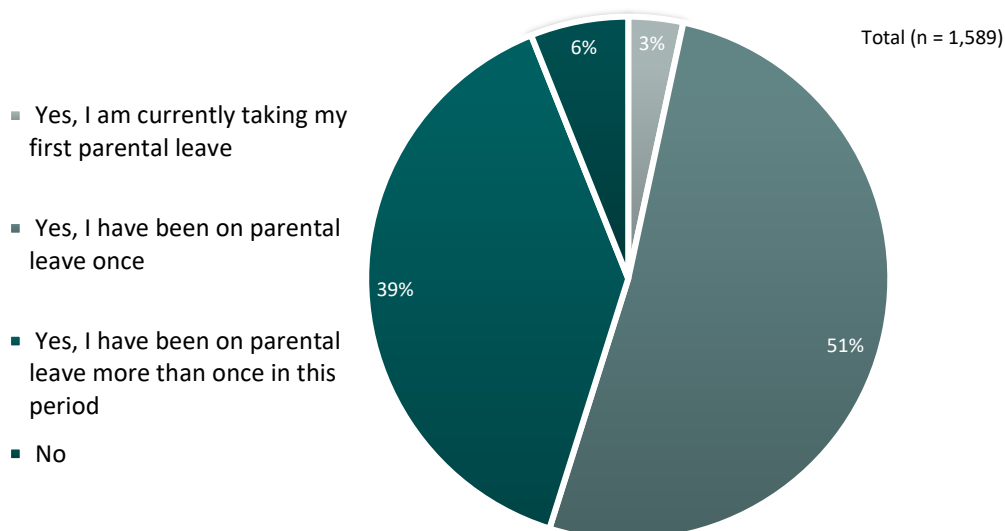
The questions given to the respondents are based on specific situations and deal with conditions related to experiences in connection with job seeking, the period before going on parental leave, the period during parental leave and the period after parental leave. Because the questions are based on specific situations, not

all respondents have been in situations similar to the ones asked about. This means that it has not been relevant/possible for all 1,589 respondents to answer all questions. Therefore the number “n” varies in the respective figures, because n corresponds to the number of respondents who have answered the specific question.

### 3.1.3 ABOUT THE RESPONDENTS

The respondent group comprises 1,063 women and 526 men (i.e. 1,589 in total), who answered the questionnaire. By using the weighting, the replies present an equal distribution of fathers and mothers.<sup>31</sup> At the time of answering the questionnaire, for 3 per cent of the respondents, this was their first time on parental leave. A total of 52 per cent were on their second parental leave and 39 per cent had been on parental leave more than once.

#### Have you been on parental leave once or more than once in the period from 2008 until today?



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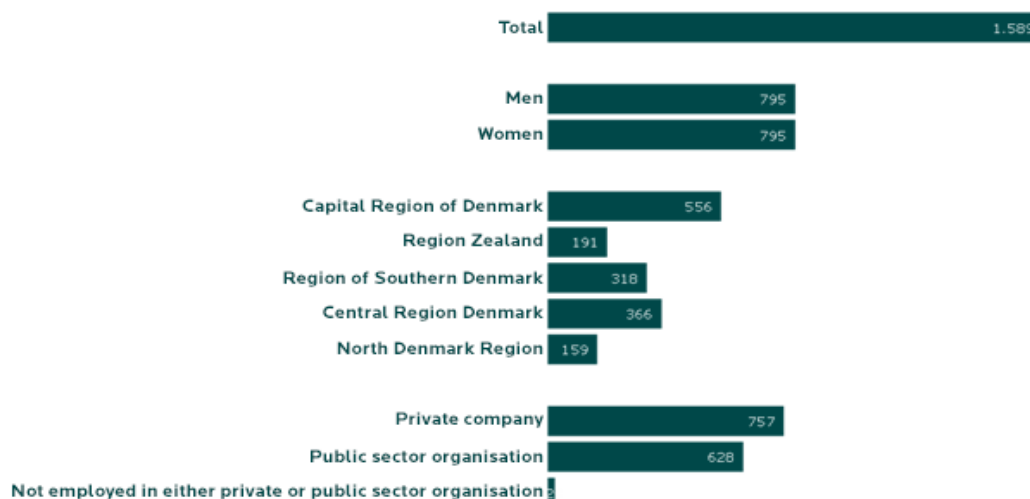
The age composition of the survey participants shows that 30 per cent are aged between 18 and 34, and the remaining 70 per cent are older than 35. Danish women are on average 29.1 years old when they have their first child (Statistics Denmark 2015a).

With regard to their employment situation at the time of data collection, 54 per cent state that they are employed in the public sector and 45 per cent state that

they are employed in the private sector. The remaining 1 per cent are neither employed in the public nor the private sector. Eight in ten (80 per cent) of the respondents are members of a trade union.

The survey is weighted to ensure the geographical location of the respondents reflects the overall geographical distribution of the survey’s target group in Denmark. As such, 35 per cent of the respondents live in the Capital Region of Denmark, 12 per cent live in Region of Zealand, 20 per cent in the Region of Southern Denmark, 23 per cent in Central Jutland and 10 per cent in the Northern Denmark Region.

### Survey respondents analysed by gender, region and place of employment



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As regards education level, almost 2 per cent of respondents have only completed primary and lower secondary school. A total of 5 per cent have completed a higher general and preparatory examination programme. Just over 2 per cent have completed a higher technical and commercial examination programme. A total of 28 per cent have completed a vocational training programme. Almost 5 per cent have completed a short-cycle higher education programme. A total of 20 per cent have completed a medium-cycle higher education programme. A total of 12 per cent have a bachelor’s degree as their highest level of education. Approximately 24 per cent have completed a long-cycle higher education programme. Finally, 1.5 per cent have completed a researcher training programme (PhD).

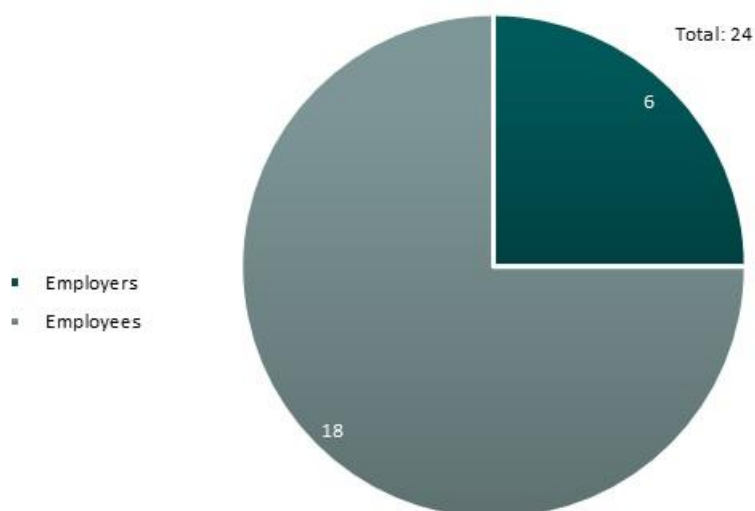
We include the above description of the different characteristics of the respondents in this analysis to provide the reader with an overall picture of the entire respondent group. However, the objective of this survey is not to divide the responses based on the respondents' different characteristics even though age, education level and place of residence may affect whether an individual considers an incident to be an act of discrimination or certain behaviour to be discriminating. On the contrary, the objective is to provide a general overview and to analyse the responses by gender.

### **3.2 METHODS USED IN THE QUALITATIVE INTERVIEWS**

The Danish Institute for Human Rights based the in-depth interviews on an interview guide that contains the themes and questions we wanted to examine. We used two different guides: one that targeted employees and one that targeted employers/HR staff. However, it should be noted that the guides are what can be described as "semi-structured" and "dynamic", i.e., they were not followed slavishly; the exact wording of the questions in the guides varied from interview to interview, and in some cases, the themes were presented in a different order. We used this approach to achieve a tone in the interviews that resembles a normal conversation. This also entails that the tone was informal in general. Prior to the interviews with the employees, interviewees were encouraged to send us a short text describing their experiences (these texts ranged from being between a few lines to being a full page of text). We used these descriptions to adapt the guide and qualify the questions in each interview. We did not use this approach in the interviews with the employers. The knowledge we obtained from each interview influenced the questions asked in the subsequent interview in that new insights and themes that had not previously been explored emerged; for example, that some pregnant employees have no prior experience with regard to returning to work after being on parental leave.

A total of 24 interviews were conducted, of which 18 were with employees who had experienced discrimination. The remaining six interviews were with HR staff.

## Number of interviewees



The reason for not interviewing the same number of employees and employers is that the interviews with employees are considered primary data, whereas the employer interviews contribute with a more in-depth perspective on the employee interviews.

It has not been our intention to report word-for-word the interviewees' experiences. Instead, the analyses are structured to reflect the overall themes selected across the interviewees' experiences.

### 3.2.1 SELECTING INDIVIDUALS FOR INTERVIEWS

Based on the fact that Danes on average have 1.69 children (2014 figures, see Statistics Denmark 2015c), and the fact that the quantitative survey conducted by the Danish Institute for Human Rights prior to the interviews (see below) shows that experienced discrimination in connection with pregnancy and parental leave is relatively common, we expected that it would be fairly easy to establish contact to individuals/employees with relevant experiences.

However, this was not the case and therefore a number of relatively informal channels had to be used. Because individuals are selected for interviews on a non-representative basis – as opposed to individuals who are selected to answer questionnaires – it is legitimate and in accordance with good practice to take a creative approach. In this case, the Danish Institute for Human Rights contacted a number of salaried employee organisations, some of which could help establish contact to relevant interviewees, whereas other organisations reported back

that they could not be of assistance. Social media such as Facebook and Twitter were also used to recruit interviewees. The Institute posted advertisements on its respective profiles announcing that it was looking for individuals who have experienced discrimination in connection with pregnancy and parental leave. The Danish Women's Society and an employee organisation also posted advertisements on their profiles. In addition, the Institute visited a number of playrooms for fathers and young children. We talked to the fathers and handed out a description of our qualitative interview survey. And, finally, we used our personal and professional networks to establish contact to individuals who had experiences that were relevant for our survey. The outcome of our efforts in total is presented in the overview below.

### Recruiting employees for interviews

	Number of women	Number of men	Total
Employee organisations	7	4	11
Social media	5		5
Father playrooms		1	1
Personal and professional networks	1		1
<b>Total</b>	<b>13</b>	<b>5</b>	<b>18</b>

To learn more about how pregnant employees and employees on parental leave are discriminated against despite the strict protective legislation, and what employers can do to hinder such discrimination, the Institute contacted a number of public and private sector employers.

Two employer organisations that had shown interest in participating in the survey were contacted, as were ten HR managers and a number of relevant individuals in our personal and professional networks. Several of these HR managers only responded after we had contacted them by email or telephone several times. Several other managers responded immediately; however, unfortunately they declined to participate. One employer organisation was interested in participating and helped us identify relevant enterprises. Unfortunately, several of these enterprises expressed reservations regarding the validity of the results due to the relatively low number of participating employers, and consequently the employer organisation retracted its consent to participate; they were only willing to participate if the survey was nationwide and had a broader scope. The second employer organisation succeeded in establishing contact to two HR staff at two different public sector organisations who were willing to participate in an interview. A total of six interviews were

conducted. Four of the interviewees were recruited through our professional networks, and it transpired that our personal relationships were essential for being able to complete this part of the study.

### **3.2.2 INTERVIEWS WITH EMPLOYEES**

Interviews with employees were conducted in the period from 25 September to 18 November 2015. In a few cases two interviews were conducted on the same day, but in general we arranged the interviews so there was a gap of a few days between them. This provided us with some time to reflect on each interview, and in some cases compare individual interviews before we moved on to the next interview.

The person being interviewed decided where and how the interview was to be conducted. A total of ten interviews were conducted at the Danish Institute for Human Rights, one at the interviewee's workplace, two in cafés and one at the home of the interviewee. The remaining four interviews were telephone interviews. Two interviewers, one male and one female, conducted the 18 interviews. In five cases, both interviewers were present during the interview, whereas only one interviewer conducted the remaining 11 interviews.

All interviews were recorded on a Dictaphone; 15 interviews were subsequently transcribed in full and used in the analysis. Only relevant parts of the remaining three interviews were transcribed.

On average, each of the 18 interviews lasted 42 minutes. However, some of the interviews were much longer and some much shorter depending on the interviewee's experiences, for example, being asked pregnancy-related questions during a job interview or being discriminated against in the workplace when pregnant, during parental leave and upon returning to work after parental leave.

### **3.2.3 ABOUT THE INTERVIEWED EMPLOYEES**

In the following, the interviewed employees' characteristics are described to provide a picture of the group's composition. It should be noted that the analysis does not deal with what characterises the interviewees, for example, whether they are employed in the public or the private sector, what their educational background is, and how many years they have worked for the same employer. Based on the scope of our qualitative data material, this kind of comparison is not possible.

Overall, with regard to type of workplace, seven of the individuals who were interviewed about their experiences of discrimination are employed in the public sector, for example, at a research institution, in eldercare or at a cultural



institution, and 11 interviewees work in the private sector, for example in the IT sector, the building sector or the finance sector. With regard to level of education, the majority of the interviewees are university graduates: two thirds have a master's degree or PhD, and one third have completed a medium-cycle or short-cycle higher education programme, or have a commercial or business degree.

The average age of the interviewed women at the time of discrimination was 32 with a distribution from 25 to 35, whereas men were slightly older with an average age of approximately 38, with a distribution ranging from "mid-thirties" to 49 years of age. Even though several of the interviewees could not remember how long they had worked at their place of work at the time of the experienced discrimination, 10 of 14 individuals reported that they had worked at their workplace for less than three years.

For five of the individuals who had experienced discrimination, their experiences led to an agreement with their employers about termination of their employment, while 12 individuals had not taken any formal steps such as legal proceedings against their employers. Of the 18 individuals interviewed, 13 had found a new job with a new employer, two were contemplating changing workplace, one had a new position with the same employer, and one was in the same position. It should be noted that they did not all change jobs because of the discrimination they experienced when they were pregnant or on parental leave. The final interviewee experienced discrimination in connection with job interviews where she was not offered the position.

#### **3.2.4 INTERVIEWS WITH EMPLOYERS**

The six interviews with HR staff were conducted in the period from 13 October 2015 to 16 November 2015. The interviewees dictated where and when they wanted the interviews to be conducted. Five of the six interviews were conducted at the respective interviewee's workplace, and one interview was conducted at Copenhagen Business School, which is where the office of the study's external consultant is located.

The interviews with the employer representatives lasted between 29 and 55 minutes, with an average length of 45 minutes. One of the interviewees requested that the interview be conducted in English. This wish was granted.

All interviews were recorded on a Dictaphone and were subsequently transcribed.

### 3.2.5 ABOUT THE INTERVIEWED EMPLOYERS

The three private sector companies included in this survey comprise two multinational corporations with several thousand employees worldwide and a couple of hundred in Denmark, and a large Danish company with several hundred employees in Denmark. Two of the three public sector employers each have several thousand employees, whereas the third public sector employer has just over a thousand employees.

Three of the six employers who participated in the survey are HR managers, and three are HR employees.

### 3.3 ANONYMITY

As the interviews about experienced discrimination revolve around personal and sensitive conditions, the interviewees were guaranteed that they will remain anonymous in the report, just as the interview material has been treated confidentially and ethically responsibly (Kvale & Brinkmann 2009). This is done out of respect for the privacy of the employees and out of courtesy to several of the employers. Moreover, this approach was also based on the reasoning that such measures encourage the interviewees to be more open about their experiences without having to fear any negative consequences for themselves or the organisation they represent. The decision to take this approach was also based on the assumption that more individuals and employers would be willing to take part in the survey if they were guaranteed anonymity.

Several of the employers in the survey would only allow a relevant HR staff member to participate in an interview if they were presented with a confirmed agreement ensuring anonymity of both the organisation and the employee in question.

In one of the interviews it is apparent that this promise of anonymity was a prerequisite for the employee's participation:

**” [...] I'd actually become really good friends with a couple of [colleagues], [...] and I actually sent them a text message [telling them] that I wasn't coming back to [workplace], and that we had made a severance agreement. [...] [A]nd then it didn't take long [...] before the union representative called me to tell me that [employer] was going to add a clause to my severance agreement stating that I was subject to a non-disclosure agreement, and that I couldn't say anything, and that it was completely unacceptable that I had texted some of my colleagues**

**about what had happened, and that they were angry as hell, all the way up to executive level.**

### **3.4 ADVISORY GROUP**

To qualify the analyses and the recommendations presented in the report, the Danish Institute for Human Rights has cooperated with an advisory group comprising seven members from the Danish Ministry of Employment, the Confederation of Danish Employers (DA), the Confederation of Professionals in Denmark (FTF), Local Government Denmark (KL), the Danish Confederation of Trade Unions (LO), the Ministry for Children, Education and Gender Equality, and the Secretariat for the Board of Equal Treatment, respectively. The role of the advisory group was to provide expert feedback and suggest new angles, thereby contributing to quality assurance of the Institute's work in connection with the survey. However, the Danish Institute for Human Rights is the sole responsible party for the content of the report and the recommendations presented here.

## CHAPTER 4

# QUANTITATIVE SURVEY OF THE EXTENT OF EXPERIENCED DISCRIMINATION

This chapter presents the results of a quantitative survey of experiences in connection with job searches before, during and after parental leave.<sup>32</sup> Because the Danish Institute for Human Rights is tasked with promoting equality between men and women, it has been crucial to identify any potential gender differences in the responses.

The questions that respondents have answered, and which therefore make up the basis of the survey, can be found above the individual figures. A more comprehensive account of the relevant legislation can be found in Chapter 2 of the report: Legal framework.

Since this is the first survey of its kind in Denmark, the quantitative survey was completed prior to the report's qualitative interview analysis in order to gain a preliminary overview of the extent of the issue. The quantitative survey was therefore published online in June 2015 (Warming 2015). However, it should be noted that the quantitative survey presented in this report contains new data from an analysis carried out by Gallup that presents the percentage of respondents that have experienced some form of discrimination in the workplace in connection with pregnancy or parental leave.<sup>33</sup>

### 4.1 RELEVANT STATISTICAL SURVEYS CARRIED OUT BY TRADE UNIONS

As previously stated, this representative quantitative survey is the first of its kind in Denmark. However, surveys highlighting issues relevant to this report have been carried out previously. These surveys will be presented in brief below.

Danish employee organisations have carried out three statistical member surveys on the subject of discrimination in connection with pregnancy and parental leave.<sup>34</sup> A survey of members of the trade union HK revealed that 14 per cent of

members have been asked about their parental leave plans during a job interview (Madsen, 2014).

A slightly older survey of members of the Association of Danish Lawyers and Economists, DJØF, shows that that women particularly experience that parental leave has a negative impact on their careers (DJØF 2005). A total of 28 per cent of women and 4 per cent of men working in the private sector believe that taking parental leave has had a negative effect on their career. For people working in the public sector, the corresponding numbers are 17 per cent for women and 8 per cent for men.<sup>35</sup> Approximately half of the women questioned believe that taking full parental leave would damage their careers. Almost a quarter of the men feel the same way. Lastly, the surveyed DJØF members believe that the biggest barrier standing in the way of an ideal distribution of parental leave is their financial situation.<sup>36</sup> This is followed by issues such as their partner/spouse's wish to take the entire leave themselves and their attitudes towards parental leave, consideration towards childcare, laws, regulations and collective agreements and, finally, the employer's attitude towards parental leave.

The employee organisation Lederne has carried out a survey of male members, asking them what conditions would need to change in order for them to take longer parental leave (The Parental Leave Committee 2013, page 125). A total of 41 per cent of the men replied that they would have taken longer parental leave if doing so would not negatively affect their career. The survey also showed that workplace culture keeps 45 per cent of male managers from taking longer parental leave. Male respondents thus indicate that they would like to take longer parental leave, but that they refrain from doing so as it is not socially acceptable at their workplace. In connection with this, two in three men point out that a legislative change to the period of parental leave earmarked for men would result in them taking longer parental leave. A total of 81 per cent of managers replied that the option of a longer period with financial compensation would have resulted in them taking longer parental leave.

Even though these surveys provide valuable insight into the negative impact that pregnancy and parental leave may have on job and career prospects, it is important to note that these are surveys of the experiences of trade union members and cannot be used to make conclusions about the Danish population in general.

## **4.2 INSPIRATION FROM NORWAY**

In 2015, the Norwegian Equality and Anti-Discrimination Ombudsman conducted a survey of experienced discrimination based on pregnancy and parental leave. The Norwegian survey inspired the Danish quantitative survey both in terms of design and implementation. As such, the questions posed in the Danish survey are a copy of the questions posed in the Norwegian survey.

## **4.3 FOCUS OF THE QUANTITATIVE SURVEY**

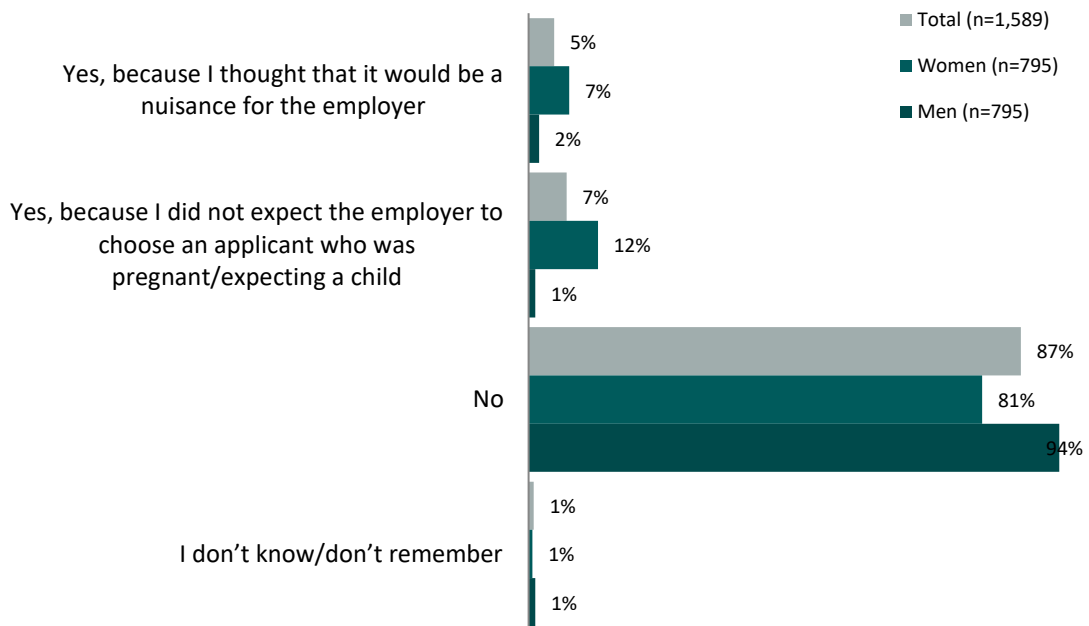
Although this survey draws on inspiration from Norway, it is not the aim of this report to carry out a comparative analysis between the two countries. Instead, the aim of this survey is to provide an overview of the extent of discrimination that Danish parents and parents-to-be experience in connection with pregnancy and parental leave. The survey covers men and women who became parents in 2008 or later.

The survey also identifies the choices that parents make themselves in connection with pregnancy and parental leave, for example, not looking for a new job, and thereby the more general changes and disadvantages they experience. The aim is therefore not to gain a deeper understanding of the various circumstances that cause the experienced discrimination, but rather to map the extent and localise the areas where discrimination might exist.

## **4.4 JOB SEARCH**

The survey shows that two thirds of respondents (65 per cent) have attended one or more job interviews during the survey period beginning in 2008. There is an equal distribution between men and women: 64 per cent of men and 66 per cent of women have attended a job interview. However, 12 per cent of respondents replied that they have not searched for new jobs because they were pregnant or expecting.

**Have you refrained from applying for a job because you (or your partner) were planning on having a child or were expecting/pregnant in the period from 2008 until now? (Respondents can select multiple answers)**



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What is eye-catching about respondents who chose not to apply for a job is that almost one in five women (18 per cent) chose not to apply for a job while she was pregnant or had plans to become pregnant. The reason for this was primarily that the woman assumed she would immediately be rejected for the position, or that she would be a burden to the employer, which she did not wish to be.<sup>37</sup>

This restraint was a choice made by the respondents themselves and is therefore not problematic from a legal perspective. However, it is problematic seen from a gender equality perspective as the practical consequence of more women than men restricting themselves from looking for a new job is that women are in a less favourable position than men.

#### 4.4.1 JOB INTERVIEWS

As seen in Chapter 2 about this report's legal framework, it is considered a breach of the Equal Treatment of Men and Women Act if an employer asks about pregnancy during a job interview or if an interview questionnaire contains

questions about pregnancy. This survey will therefore take a closer look at job interviews. However, we cannot equate the experiences of respondents with breaches of the act.

Approximately one in seven respondents (14 per cent) have experienced being asked whether they are pregnant, are expecting or plan to take parental leave during a job interview. In other words, applicants are relatively often asked about pregnancy or parental leave during a job interview.

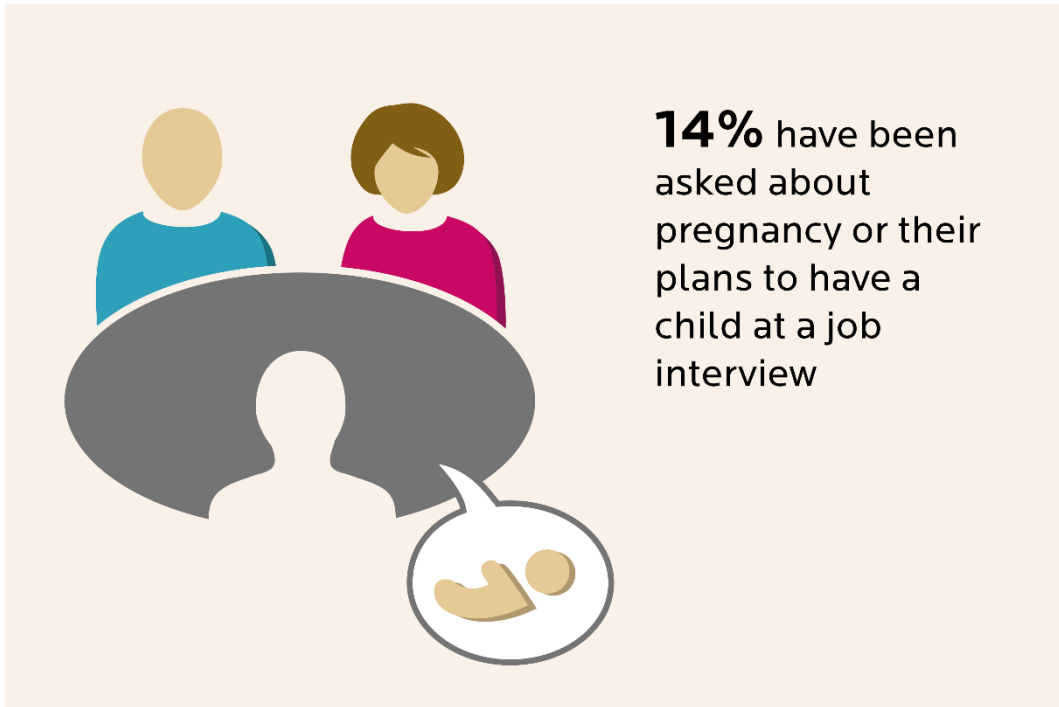
**If you think back to previous job interview(s), have you ever experienced being asked about whether you are expecting a child/pregnant or whether you have plans to have a child?**



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There is a slight difference between the percentage of women and men who are asked this question; 16 per cent of female respondents and 12 per cent of male respondents have experienced an employer ask questions about parental leave. It is worth noting that men are also asked to account for potential plans, which indicates that not only women experience that parenthood is a potential barrier towards their future work life and career.

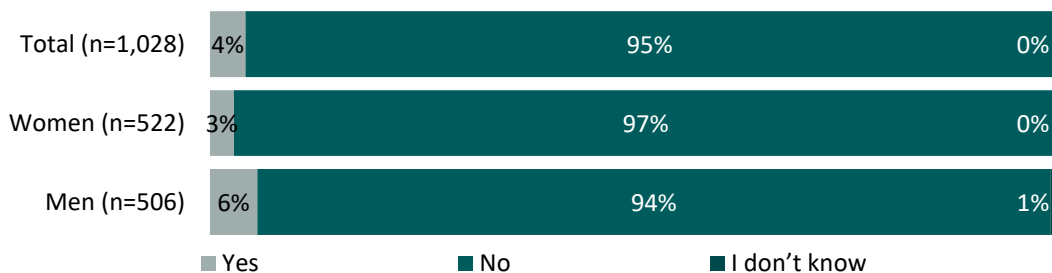




#### 4.4.2 QUESTIONS ABOUT PLANS FOR PARENTAL LEAVE

A total of 4 per cent of respondents who attended a job interview were asked about whether they intend to share parental leave with their partner or spouse. The figure below shows a significant gender difference in relation to the percentage of women and men who have experienced being asked this question.

**Have you been asked whether you and your spouse/partner have agreed to share parental leave in connection with a pregnancy during a job interview?**



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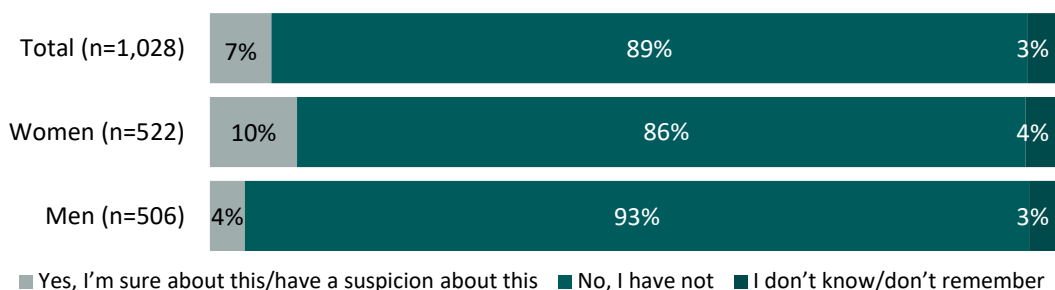
More men (6 per cent) than women (3 per cent) have experienced being asked about plans to share parental leave with their partner/spouse during a job interview. The fact that men are asked about sharing parental leave more often

than women may be because employers often assume that women will take all the parental leave (see previously mentioned data from Statistics Denmark on the division of parental leave), which is why women are not asked this question to a similar extent.

#### 4.4.3 JOB REJECTION

Rejecting an applicant for a position based on pregnancy or parental leave is a breach of the Equal Treatment of Men and Women Act, which states that men and women must be treated equally in connection with recruitment, reorganisation of duties and promotions. We therefore ask whether the two thirds of respondents who have interviewed for a job since 2008 have experienced being rejected for a job because they were pregnant or planned on taking parental leave. Approximately 7 per cent responded that they suspect or are certain they did not get a job because of this. This confirms the assumption that pregnancy and plans to take parental leave reduce the chances of being hired for a new position.

#### Have you experienced being rejected for a job because you were pregnant/expecting or planned on taking parental leave?



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Among respondents who had attended a job interview, one in ten women (10 per cent) responded that they are certain or suspect that they were not hired because of pregnancy or plans to take parental leave. For men this figure is lower, namely four per cent.

#### 4.4.4 MAIN POINTS

- Almost one in five women have chosen not to look for a new job while they were pregnant or trying to get pregnant, because they assumed that the employer would not hire a pregnant applicant, or because they did not want to begin new employment by being a burden to the employer.

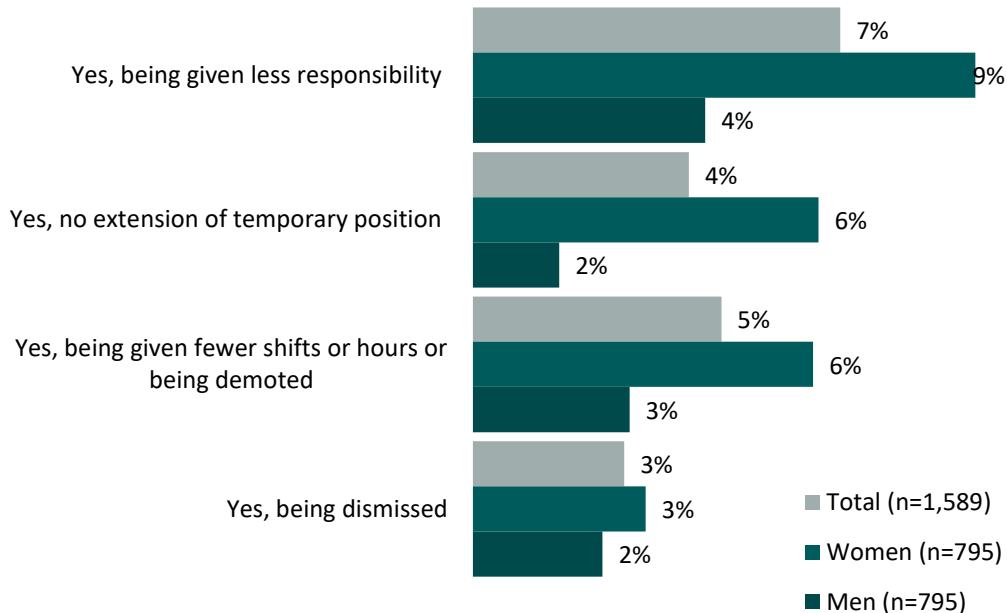
- One in six women who has attended a job interview has experienced being asked whether she is pregnant or has plans to have a child. A total of one in eight men are asked the same question.
- A total of 10 per cent of the women who attended a job interview are certain or suspect that they were not offered the position because they were pregnant or planned to take parental leave.
- A total of 6 per cent of the men who attended a job interview have experienced being asked about their plans to take parental leave. A total of 4 per cent of women are asked a similar question.

#### **4.5 WORKING CONDITIONS PRIOR TO PARENTAL LEAVE**

A significant percentage of respondents experience that their working conditions become less favourable in connection with expecting a child or plans to take parental leave. At an overall level, 18 per cent of women answer that they have experienced less favourable working conditions in connection with pregnancy, while 7 per cent of men experience the same in connection with planned parental leave.

**Have you experienced less favourable working conditions because you were pregnant/expecting or because you planned on taking parental leave?**

(Respondents can select multiple answers)<sup>38</sup>



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Looking at the four types of less favourable working conditions that respondents were asked to consider, 9 per cent of women and 4 per cent of men are certain or suspect that tasks that they wanted to keep were taken away from them. A total of 6 per cent of women and 2 per cent of men are certain or suspect that their temporary position was not extended due to pregnancy or plans to take parental leave. Furthermore, 6 per cent of women and 3 per cent of men respond that they believe or suspect that becoming a parent or taking parental leave has resulted in their position being lowered or their working hours being reduced. Finally, 3 per cent of women and 2 per cent of men responded that they are certain or suspect that their dismissal was related to pregnancy or their plans to take parental leave.

Although we cannot conclude that the discrimination experienced is discrimination under the law, it must be emphasised that a dismissal wholly or partly due to pregnancy and parental leave is a breach of the Equal Treatment of Men and Women Act.

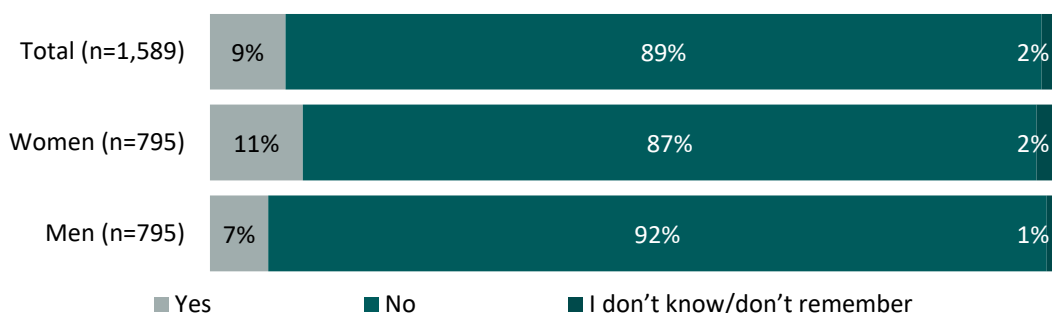
It is clear from the quantitative survey that women in particular experience less favourable working conditions in connection with becoming parents. However,

men also experience discrimination when they announce their pending fatherhood.

#### 4.5.1 REACTIONS FROM MANAGERS AND COLLEAGUES

The survey shows that 9 per cent of respondents experience that their relationship with their manager is negatively affected when they announce a pregnancy.

**Have you experienced negative reactions from your manager because you were expecting a baby/pregnant or because you were planning to take parental leave?**



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The answers also show that more women (11 per cent) than men (7 per cent), have experienced negative reactions when managers are made aware of their pregnancy and plans for parental leave. This may be related to the fact that women on average take longer parental leave than men in connection with becoming parents.

Announcing a pregnancy or plans to take parental leave not only affects the employee's relationship with their manager; 5 per cent of respondents said they also experienced negative reactions from their colleagues.

#### 4.5.2 MAIN POINTS

- A total of 18 per cent of women and 7 per cent of men experience less favourable working conditions – e.g. tasks are taken away from them, they are given a reduced number of shifts and working hours, their temporary position is not extended, or they are dismissed as a consequence of pregnancy and/or plans to take parental leave.

- A total of 11 per cent of female respondents have experienced a negative reaction from their manager when they announce their pregnancy or their plans to take parental leave. For men this figure is 7 per cent.

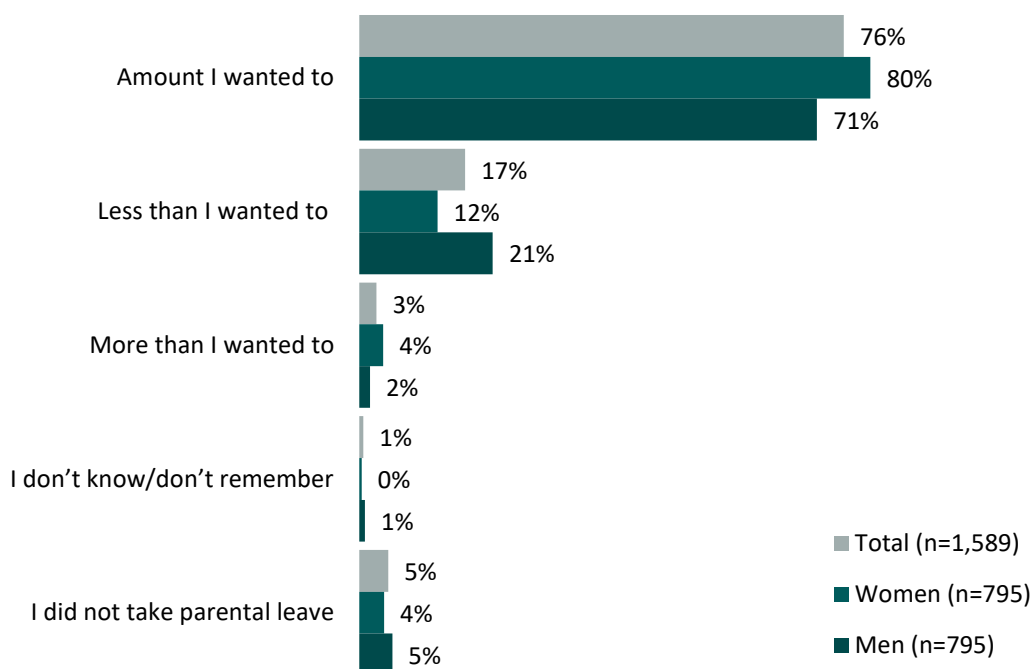
## 4.6 PARENTAL LEAVE

How parental leave is shared between men and women is central to the gender equality debate and research in Denmark. The Danish Institute for Human Rights has therefore wished to identify whether men and women are satisfied with the duration of their parental leave.

### 4.6.1 SATISFIED WITH THE DURATION OF PARENTAL LEAVE?

Overall, three in four respondents (76 per cent) in this survey were able to take the amount of parental leave they wanted. In contrast, around a sixth of the respondents (17 per cent) took less parental leave than they had hoped to.

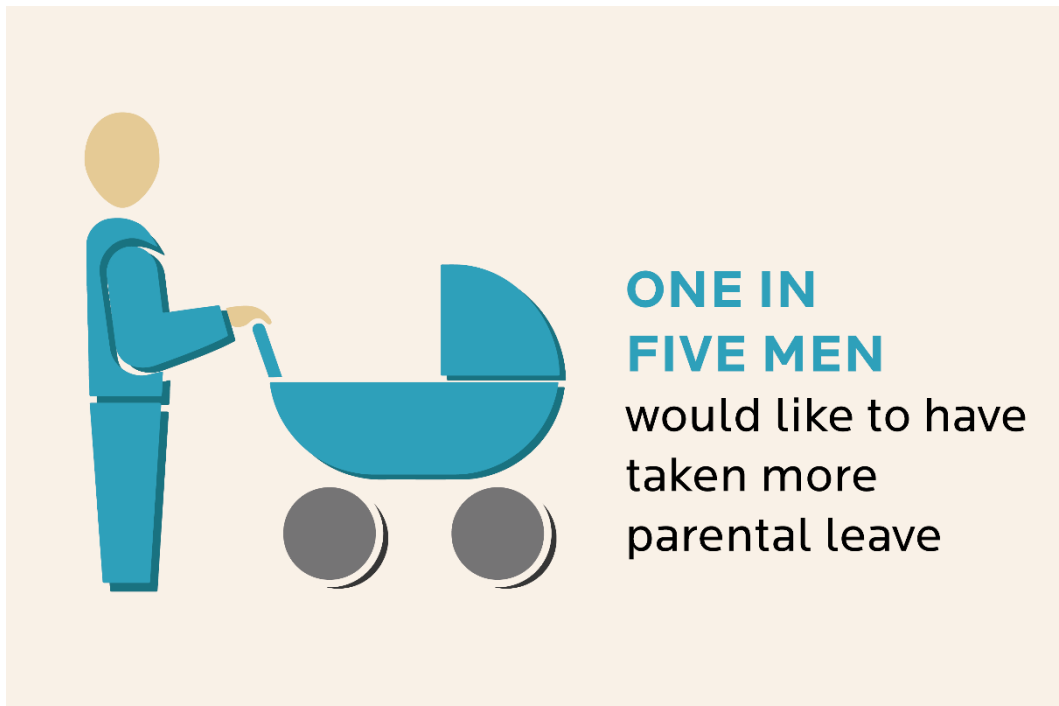
#### Did you take as much parental leave as you wanted?



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Since we know that there is a significant difference between how much parental leave women and men take, it is relevant to see how the responses break down by gender. The survey shows that more women (80 per cent) than men (71 per

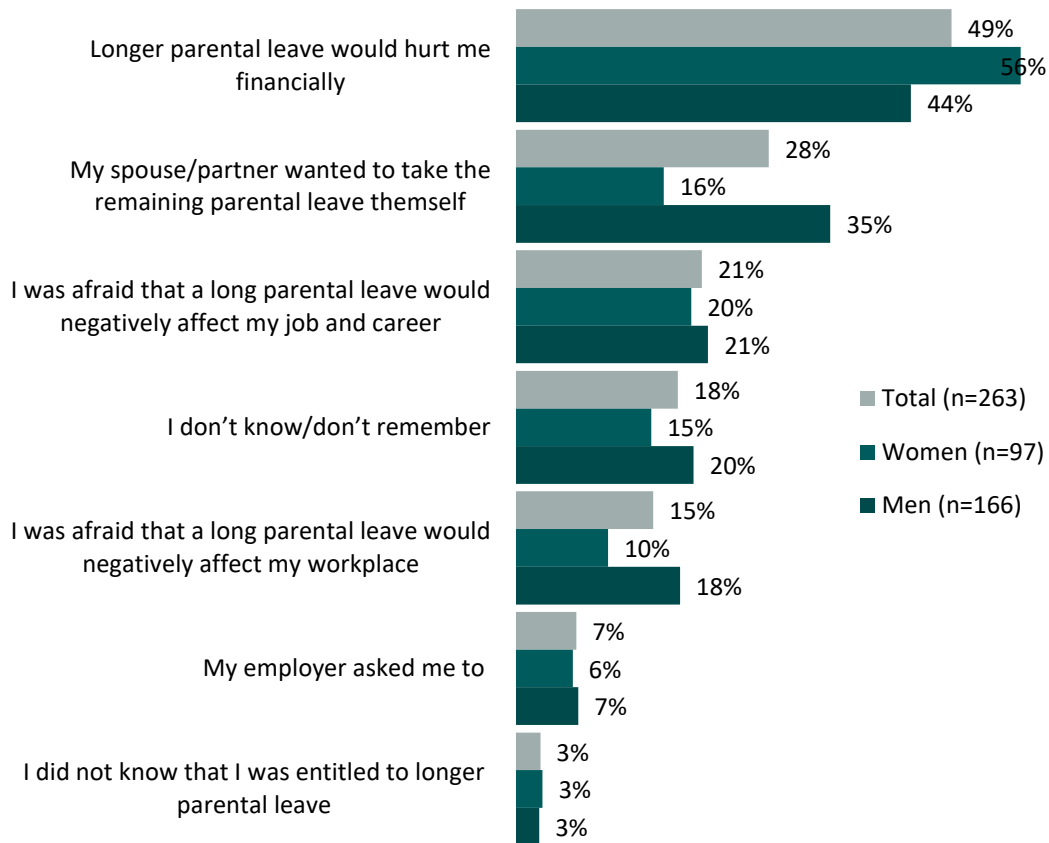
cent) are satisfied with the duration of their parental leave. More men than woman have taken less parental leave than they wanted to (21 per cent of men, 12 per cent of women).<sup>39</sup> In other words, this shows that more than one in five men who participated in this survey would have liked to have taken longer parental leave.



#### **4.6.2 WHAT DETERMINES THE DURATION OF PARENTAL LEAVE?**

When asked for the reasons why some men took shorter parental leave than they wanted, they primarily replied that it was due to financial circumstances. Financial concerns are also an important factor for women.

**Why did you take less parental leave than you wanted to? (Respondents can select multiple answers)**



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Half of respondents (49 per cent) across genders replied that financial circumstances were the main reason why they took less parental leave than they would have preferred. The second major reason is the spouse or partner's wish to take the remaining parental leave themselves. More than every third man (35 per cent) refrained from taking the amount of parental leave they wanted because their spouse or partner wanted to take longer parental leave. For women, this was the case for one in six (16 per cent). It is worth noting that the two main reasons for taking shorter parental leave (financial loss and the spouse/partner's wishes) has nothing to do with potential discrimination from the employer, but is the result of choices and negotiations made by the parents.

A number of respondents, however, stated that their shorter parental leave was due to their career. One fifth of respondents across genders were afraid that a longer parental leave would damage their careers. Furthermore, 18 per cent of



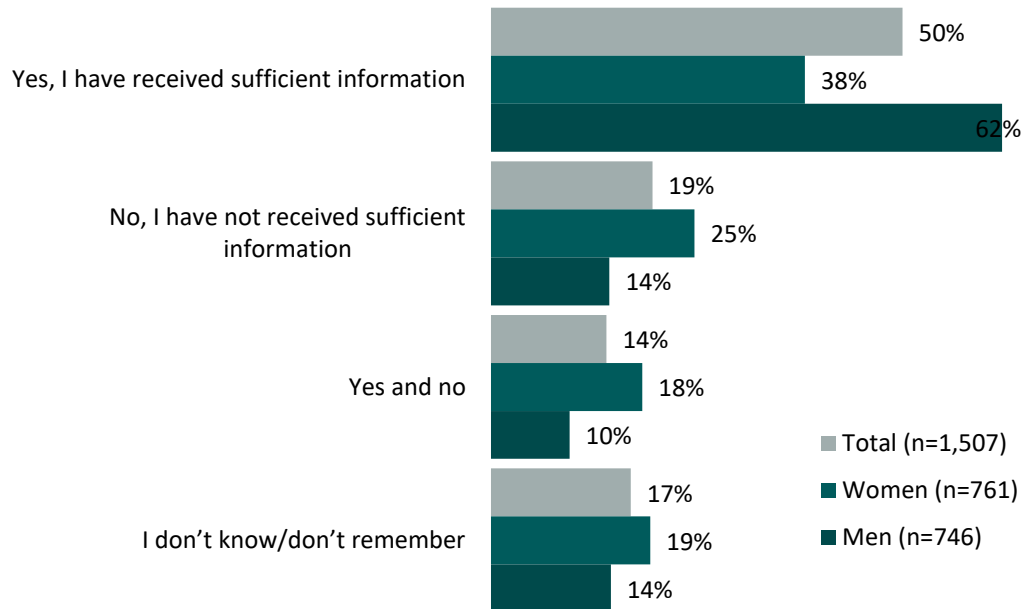
men and 10 per cent of women believe that taking longer parental leave would negatively affect their workplace. More men (20 per cent) than women (15 per cent) who wanted to take longer leave responded that they were not entitled to more leave, while 7 per cent of men and 6 per cent of women replied that their employer asked them to not take any more parental leave. And finally, 3 per cent of respondents were not aware that they were entitled to take longer parental leave.

#### **4.6.3 INFORMATION FROM THE WORKPLACE DURING PARENTAL LEAVE**

Becoming a parent and taking parental leave often means being absent from work for a short or extended period of time. As a consequence, the employee does not necessarily have access to information about important situations, such as reorganisations and salary negotiations, which are only communicated internally, for example, at department meetings. Knowing what has gone on at the workplace while one has been away means that, all else being equal, it will be easier for the employee to return to work and perform their tasks to the same level of proficiency as before they went on leave. According to the Equal Treatment of Men and Women Act, it is illegal to refrain from calling a person in for salary negotiations just because they are on parental leave.

Overall, half of respondents (50 per cent) stated that they were sufficiently briefed by their workplace while they were on parental leave. About a fifth of respondents (19 per cent) feel that they were not sufficiently briefed. Some respondents (14 per cent) have been informed about some things but not others.

**Do you feel that you were adequately briefed about important issues at your workplace, e.g. salary negotiations or reorganisations during parental leave?**



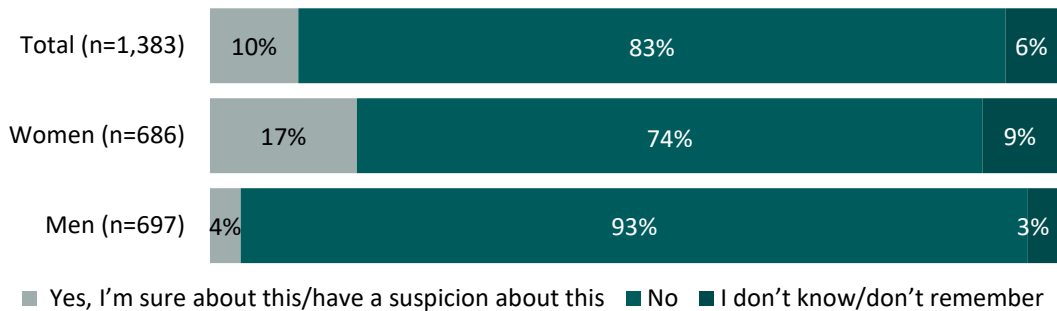
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There is a significant gender difference to be found when assessing whether sufficient information was given about important issues during parental leave: While nearly two thirds of male respondents (62 per cent) said that they were adequately briefed during parental leave, only one third (38 per cent) of female respondents felt the same way. In line with this, more women than men (25 per cent versus 14 per cent) indicated that they were not sufficiently briefed during parental leave. This difference might be due to women taking much longer parental leave than men; that is, they are absent from the workplace for a longer period of time, and they therefore miss out on more information.<sup>40</sup>

**4.6.4 SALARY NEGOTIATIONS AND PAY INCREASE**

Every tenth respondent (10 per cent) has experienced not being invited to participate in salary negotiations at their workplace while they were on or had been on parental leave.

**Have you experienced not being invited to participate in salary negotiations because you were on or had been on parental leave?**

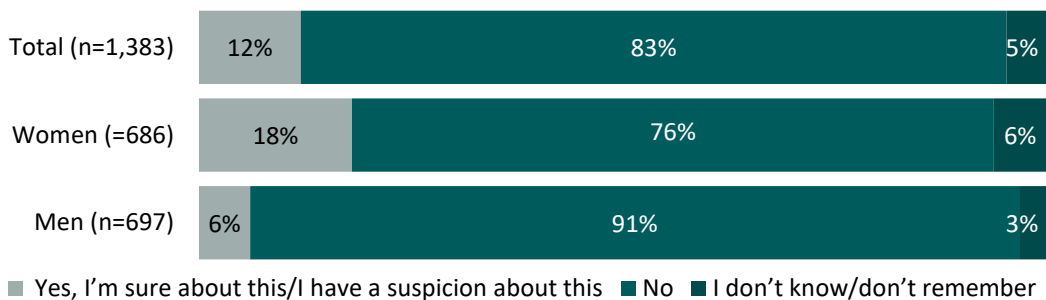


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There is a significant gender difference in the replies as more women than men have experienced not being invited to participate in salary negotiations (17 per cent versus 4 per cent). Again, this may be because women are absent from the workplace longer than men.

A total of 12 per cent of respondents believe/suspect that they have not received a pay increase due to taking parental leave.

**Have you experienced not receiving a pay increase because you were on parental leave or had been on parental leave?**



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We also see a gender difference in this instance, as almost every fifth woman (18 per cent) and roughly every sixteenth man (6 per cent) believe/suspect that they have not received a pay increase because they were on parental leave. It is a breach of the Equal Pay Act to be denied a pay increase due to being on parental leave.

#### **4.6.5 MAIN POINTS**

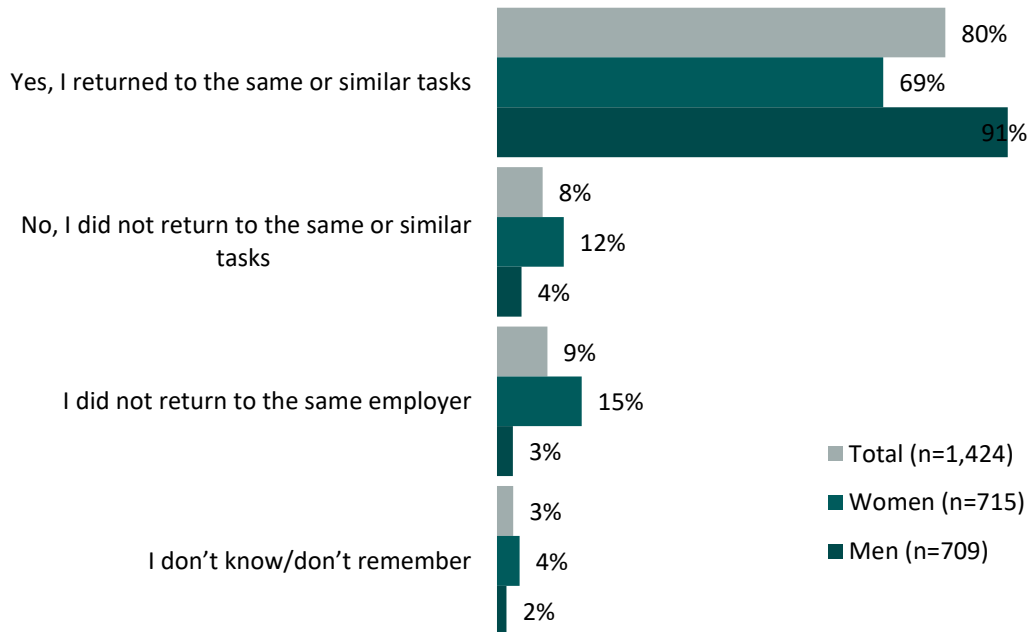
- A total of 21 per cent of male respondents do not take as long a parental leave as they want. For women, this figure is 12 per cent.
- Half of parents who take shorter parental leave than they want say that this is because longer leave would hurt them financially.
- More than a third of men who want to take longer parental leave reply that they do not do so because their partner would like to take the remaining parental leave.
- A total of 19 per cent of respondents believe that they were not sufficiently briefed about important issues at their workplace while they were on parental leave.
- A total of 17 per cent of female respondents and 4 per cent of male respondents were sure/suspected that they were not invited to participate in salary negotiations because they were on parental leave or had been on parental leave.
- Finally, 18 per cent of women and 6 per cent of men were sure or suspected that they had not received a pay increase because they had taken parental leave.

#### **4.7 JOB AND WORKING CONDITIONS AFTER PARENTAL LEAVE**

According to the Equal Treatment of Men and Women Act, parents who have taken parental leave have the right to return to the same or an equivalent position and to the same or equivalent working conditions. It is therefore relevant to look at what respondents have experienced in this regard.

When asked about what tasks they returned to after parental leave, eight in ten respondents (80 per cent) replied that they returned to the same or similar tasks. A total of eight per cent answered that they returned to different tasks, even though three in four respondents did not want their tasks to change. Finally, 9 per cent of respondents said that they found a new job at the end of their parental leave.

**If you think back to when you returned from parental leave, can you recall whether you returned to the same or similar tasks?**



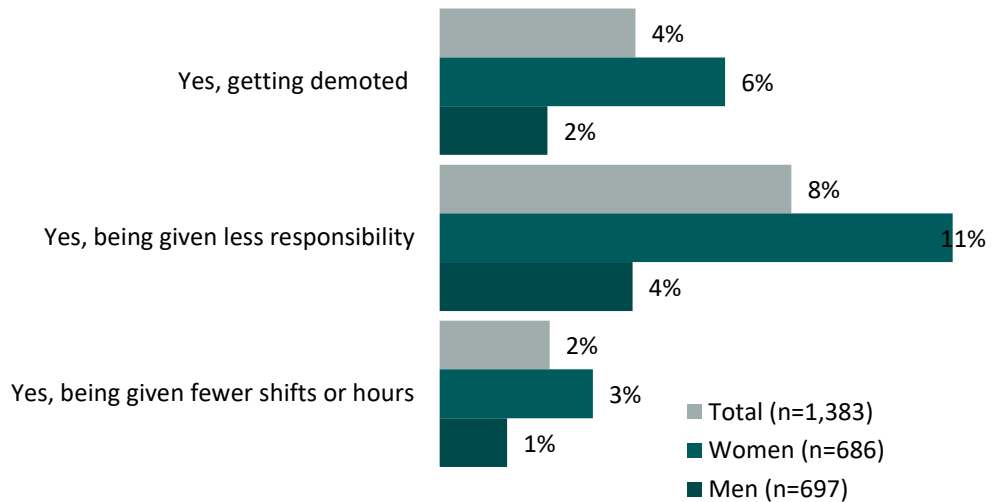
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More than nine in ten men (91 per cent) returned to the same tasks after parental leave compared to seven in ten women (69 per cent). A total of 12 per cent of women and 4 per cent of men replied that they did not return to the same or similar tasks after they returned to work after parental leave. As was mentioned earlier, the duration of parental leave might be significant in this case.

The survey also shows that approximately one in seven female respondents (15 per cent) do not return to the same employer after parental leave.

In addition to unwanted changes to tasks, some respondents replied that they experienced less favourable working conditions in the form of demotion (4 per cent), withdrawal of responsibilities (8 per cent) and a reduction of shifts or hours (2 per cent).

**Have you experienced less favourable working conditions after you returned to work from parental leave? (Respondents can select multiple answers)<sup>41</sup>**



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With regard to the three different categories of less favourable working conditions that respondents were asked to consider, women experience less favourable conditions to a greater extent than men. In total, 6 per cent of women and 2 per cent of men experience less favourable conditions, while 11 per cent of women and 4 per cent of men experience being given less responsibility when they return to work after parental leave. Finally, 3 per cent of women and 1 per cent of men experience being given fewer shifts or working hours than prior to taking parental leave.

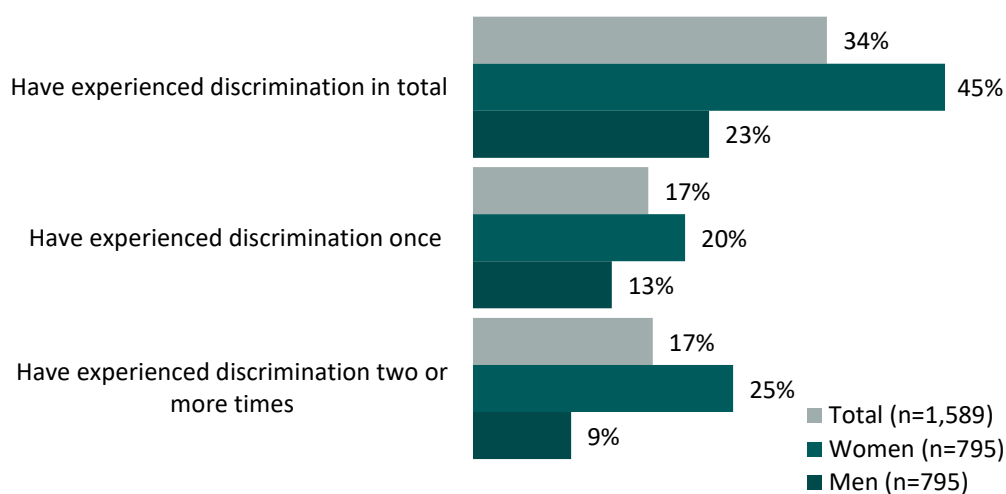
**4.7.1 MAIN POINTS**

- A total of 12 per cent of women are given new tasks when they return to work after parental leave, even though the majority of these women did not want new tasks.
- One in seven women do not return to the same employer after parental leave.
- Women in particular experience less favourable conditions (11 per cent), demotion (6 per cent) and fewer shifts or working hours (3 per cent) when they return to work after parental leave.

#### 4.8 OVERALL EXTENT OF EXPERIENCED DISCRIMINATION

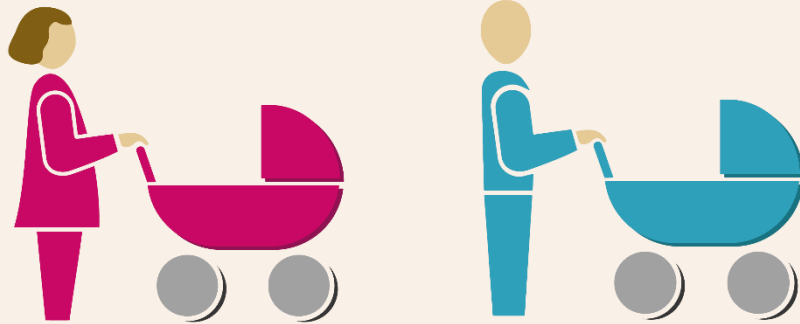
Respondents have not been directly asked whether they have experienced discrimination at a more general level. However, the answers contained in the figure below are the subsequent aggregated totals of the percentage of respondents who replied affirmatively to two or more of the questions in the survey about experienced discrimination. These totals are not included in the survey published online in June 2015 (Warming 2015).

##### Percentage of individuals who have experienced discrimination two or more times



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Among the 1,589 respondents that participated in the survey, a third of them (34 per cent) answered that they have experienced discrimination due to pregnancy and/or parental leave. Half of these respondents (17 per cent) have experienced discrimination once, while the other half (17 per cent) answered that they have experienced discrimination two or more times.



**ONE IN TWO WOMEN & ONE IN FOUR MEN**  
experience one or several types of discrimination  
in connection with pregnancy and parental leave

There is a significant gender difference as twice as many women as men have had these negative experiences. Almost half (45 per cent) of all female respondents and approximately a quarter (23 per cent) of male respondents said that they felt badly treated while they were pregnant, during parental leave and/or when they returned to work after leave. Furthermore, it is worth noting that the percentage of women who had experienced discrimination two or more times was greater than the percentage that had experienced it once. With regard to the men, the percentages were reversed with 9 per cent and 13 per cent.



## CHAPTER 5

# ANALYSES OF EMPLOYEE EXPERIENCES

As the aim of this chapter is to examine and give examples of how discrimination is experienced in practice, the chapter is divided into four main themes that are organised chronologically: job search, being pregnant and working, being away from work due to parental leave, and, finally, tasks and working conditions after parental leave.

In this chapter we examine how men and women experience discrimination in connection with their job search, pregnancy, planning parental leave, and returning to work after parental leave. Based on stories from the working lives of 18 men and women, we analyse how they have experienced discrimination in their everyday lives.

We must stress – as mentioned in the introduction – that our analyses are based on the (subjective) experiences of individuals. Such an approach may warrant criticism regarding two aspects: 1) the one-sidedness of the personal accounts, and that the employer's version of the given situation is not included; and 2) the relatively limited number of individuals included in the analysis only represents isolated and subjective experiences. As regards 1), it should be noted that this report is about *experienced* discrimination, and not discrimination in the legal sense of the word, that is, discrimination that has been tested by a court of law or the Board of Equal Treatment, or that has been settled through conciliation by an official body. Having said that, a few of the individuals interviewed have won or settled a case about discrimination. As regards 2), we refer to Chapter 4, which contains a quantitative survey based on a representative sample of the Danish population.

Even though the interviewees' stories do not qualify as discrimination in the legal sense, we will refer to relevant legislation presented in Chapter 2 throughout the analysis.

## 5.1 JOB INTERVIEW: “ASKED ME DIRECTLY WHETHER I WAS PLANNING TO HAVE ANY MORE CHILDREN”

Several of the interviewees report that they have experienced discrimination in connection with a job interview. They have been met with questions that they describe using words ranging from the fairly subdued “disappointing” to the emotionally charged “absolutely shameless”. The questions primarily concern pregnancy, but questions are also asked about how a couple will organise and share any parental leave in the future.

Clearly, questions about pregnancy have a gender dimension, and because pregnancy entails absence from the workplace due to parental leave (and possibly due to pregnancy-related sickness), being pregnant does not increase an applicant’s chances of being offered the position in question. This is why the legislation in the area is fairly strong; in accordance with the Equal Treatment of Men and Women Act, employers must treat men and women equally, among other things, in the recruitment situation. This means that an employer must not base decisions about whom to employ on gender-specific circumstances, for example, whether the applicant is pregnant. According to legal practice, women do not have a duty to disclose that they are pregnant. Therefore, if an employer asks questions about pregnancy, this is considered a breach of the law.

Despite the current legislation, some women experience that the issues of pregnancy and parental leave are still brought up in job interview situations.

**” And then they [the recruitment committee] sit there and laugh awkwardly and say, ‘uh, well, I know I’m not really supposed to ask you about this, but: ‘What about children?’ [...] [If] I had said yes, I’m pretty sure it would have hurt my chances, quite simply because, if [...] they weren’t planning to take this into consideration, then there was no reason to ask about it. So, in that way, the law makes no sense in that they can [ask], but they can’t use it.**

Applicants are free to refrain from answering such questions during a job interview. However, interviewees who have been to a job interview while they were pregnant agree that it “will lead to a slightly tense atmosphere, if I reply, ‘You’re not allowed to ask me that and I don’t want to answer,’” as one of the women reflects after she had been to a job interview at a large research institution where they “asked me directly whether I was planning to have any more children.” Another woman tells about a job interview in a small shop and notes that, “I knew that in principle I didn’t have to answer, but at the same time you also know that if you just brush off those questions curtly, then you might

not get the job.” These two examples illustrate the dilemma applicants face if they are asked questions about pregnancy and parental leave during a job interview. On the one hand, a female applicant has no duty to tell an employer that she is pregnant, but on the other hand, if she knows her rights and sticks to them – and tells the employer off – she runs the risk of not being chosen for the position.

One of the men interviewed was also asked about children during a job interview, and he also addresses the potential consequences of telling the employer that he would like a weekly day off as part of his parental leave when he becomes a father one day.

**” Yes, I’ve been to interviews [...] where they’ve asked whether I have kids, and I’ve said, ‘No, I don’t.’ [...] I’m almost 100 per cent certain that if I’d said that I wanted to take [every] Friday off, I wouldn’t have got it.**

The assumption that information about pregnancy will have negative consequences with regard to being offered a position leads some women to refrain from applying for a job while they are pregnant. For example, when describing what happened when she was dismissed while she was pregnant, one of the women says:

**” [...] I was pregnant and so I actually felt like it was hard to look for a new job. What was I to do? I didn’t really feel like I had a lot to offer because I knew I was pregnant. It [...] takes nine months, and then you’ve got a small child for a long time. [...] That’s why I didn’t look for a new [job].**

#### **5.1.1 “UNETHICAL TO GO TO A JOB INTERVIEW WHILE PREGNANT”**

Several of the interviewees stress that they do not want to start a relationship with a prospective employer based on concealing facts or based on an outright lie. This is true of both being offered a new job with a new employer and being promoted to a new job at the same workplace due to an internal shuffle. With regard to the new employer situation, one woman says, “I thought I’d got the job based on my qualifications,” which was why she “wanted everything out in the open,” before she signed her employment contract.

**” Well, I was six weeks pregnant at the time of the interview, and that’s why I was discriminated against, [...] it was after I was offered the job and I’d said yes [that] I told them that I was**

**pregnant. Then I was told that it was unethical of me to take the job, [...] I hadn't officially started working there and that's why they could – as a simple administrative move – shorten my employment.<sup>42</sup>**

In line with this, it should be mentioned that during the woman's job interview, no questions were asked about whether she was pregnant, and she did not want to mention it herself because she was so early in her pregnancy and therefore still at risk of miscarrying. It should also be mentioned that pursuant to the Parental Leave Act, a woman does not have a duty to inform her employer that she is pregnant until three months before the expected week of childbirth.

That employers expect an applicant to feel ethically bound to tell them that they are pregnant during a job interview can be seen from a case from 2015 where the Confederation of Danish Employers stated that even though a woman has no "duty to say anything" about being pregnant, it constitutes "a breach of trust if the woman neglects to mention something that will affect her working conditions" (Astrup 2015). This statement was made shortly after the Board of Equal Treatment (Board of Equal Treatment 2015c) ruled in favour of a female applicant who was offered a job only to have the job offer retracted after the employer found out she was pregnant.

## **5.2 ANNOUNCED HER PREGNANCY EARLY: "I WANTED TO PROTECT THE BABY"**

As mentioned above, even though it is not mandatory for a woman to tell her employer that she is pregnant until three months before the expected week of childbirth, several of the women interviewed have shared this information with their employer earlier than this. Even though they have different reasons for doing this, they almost all have in common that they are concerned that their tasks or workload will harm their unborn child. One of the women is very clear about this and says, "I wanted to protect the baby I was carrying. I didn't want to be forced to work in a way that might lead to me miscarrying or that would harm the baby." Another reason why several women and men inform their employer about the expected week of childbirth early on in the pregnancy is to allow the employer time to prepare for their absence by delegating tasks to colleagues or by hiring a maternity cover. This makes it easier for the employer and the organisation to manage without the new mother or father during their parental leave.

Some of the women who were interviewed report that they did not reveal this information because they wanted to, but because they had to (see later) because

some aspects of their job posed a risk to them and their baby. One of the women wants to change some of her tasks because they involve “a lot of heavy lifting,” which has been documented to lead to a risk of “losing the baby”, as she says when explaining why she told her employer about her condition so early in her pregnancy. Similarly, two other women also need to transfer to other tasks because they work with machinery and chemicals that are classified as potentially harmful to the unborn child.

One woman says, “I wanted to wait the first three months before I said anything about it,” but because of some upcoming changes at work that would require her to work more than full time for a longer period, she was forced to tell her manager about her pregnancy.

**” But at the meeting where he told me that I had to work longer hours [...] then I said, ‘but I can't work longer hours,’ and then I said, ‘because I’m pregnant.’ He went all quiet and then he blurted out before saying anything else, ‘But then you can’t keep the job you have, you can’t... You can’t be pregnant and have the job that you have.’ [...] I know from previous jobs where other women were pregnant in the same kind of job that it was possible, it just needed some planning.**

During the interview, the woman makes it clear that she was very annoyed that despite all of her arguments for not increasing her workload, her employer would not accept that she was already working more than full time nor that she could not take on any more hours. In the end, she feels she has no other choice than to mention the issue of her rights, and thus also her gender, which she does reluctantly.

**” [...] I also think it’s really annoying to have to play the pregnancy card, because I’ve never wanted to have to do that. [...] I hate that I had to go there – at all – instead of just sticking with the fair argument that ‘we’re already working crazy hours right now.’ [...] 45 [hours a week] or something like that [...] I was surprised that I even had to say that I was pregnant, and that that was the only reason I could use for not having to work more than I was already working.<sup>43</sup>**

In the case described here, the manager decides to hire a maternity cover who can take on the pregnant employee’s tasks before she goes on maternity leave. However, it transpires that the position is not offered as a temporary position but as a permanent position, because, as the manager explains, “the most

qualified candidates only apply for a permanent position, and it was important to have some [applicants] who were qualified.” In the end the woman agreed to be moved to another department in the municipality, where she was assigned to a position with similar tasks and the same level of responsibility.

### **5.2.1 SOCIAL REACTION TO NEWS ABOUT PREGNANCY: “OH, WOW, THAT’S ONE LONG HOLIDAY”**

The individuals whose experiences are included in this analysis are met with very different reactions from their managers when they tell them that they or their partner are pregnant. Some managers are very negative, and the interviewees describe their reactions in the following way: “aggressive, very aggressive, really told me off”, “I really didn’t feel welcome” and “keeps trying to make life difficult for me with regard to going on leave”. And some managers are very positive; their reactions are described in positive terms: “sweet and nice” and “then she actually starts laughing based on, and well, having children can only be a good thing.”

With regard to their colleagues, several of the women say that they have not been met with a strong reaction when they tell them that they are pregnant. However, one of the women was met with a positive reaction from her colleagues because “they stand to be promoted” once she goes on parental leave. At the opposite end of the scale, a woman describes how a close colleague reacted badly: “He’s just angry that now there’s one more problem to deal with in the project.” The men who were interviewed are met with different reactions from their colleagues. For example, a male colleague comments, “I can’t believe you want to stay at home for so long on parental leave,” indicating surprise and implicitly demonstrating a negative attitude toward men who choose to go on parental leave. Similarly, another man describes how his male colleagues react “just as you would expect, like: ‘Oh, wow, that’s one long holiday,’” whereas his “female colleagues thought it was great that I was doing my bit.”

### **5.3 GIVEN NEW TASKS DURING PREGNANCY: “DEMOTED TO MAKING COFFEE AND PRINTING”**

Quite a few of the women interviewed describe being given new tasks after they had announced their pregnancy. For some of them, this was necessary for health reasons, whereas for others, these changes were instigated by their employer in an attempt to pre-empt a situation where the pregnant employee is suddenly absent from the workplace due to pregnancy-related sick leave. As an example of the first-mentioned situation, one woman explains that she works with “carcinogenic substances and you can’t work with them when you’re pregnant, [...] [because] there’s a big risk that if there’s an accident, the baby will be

harmful.” However, a number of other women have not been met with this kind of understanding from their employer.

**” And I knew I had a health risk that increased the probability that I would have to stop working for health reasons before my maternity leave set in. [...] The thing is, my job involves scanning, and for health reasons, you’re not allowed to do that when you’re pregnant. [...] It was pretty difficult to get that conversation started, to say the least.**

In this specific case, quite some time goes by in which several planned meetings are cancelled. On top of that, the woman’s manager does not show up to a number of other meetings where new tasks are to be discussed, but finally she succeeds at making an agreement with her employer about new tasks that do not involve a health risk. However, she does not think that her new tasks are “appropriate” in comparison with her previous responsibilities, as is required pursuant to the Parental Leave Act, but she accepts them. “I simply don’t have the energy to address this issue, so I just do what’s easiest,” she says.



As we have seen, sometimes an employee is assigned new tasks because this is a necessity, and sometimes an employee is given new tasks because the employer thinks this is best with regard to the future planning of the work. A female manager who works in a male-dominated workplace feels that from the moment

she told people at work that she was pregnant, she has been treated as if she were sick.

**” They had explained that it’s good to be prepared, because you never know when a pregnant woman will report in sick, so just to avoid being in a pickle one day, they thought it would be best if we just did it now, [...] we reorganised right away and [then] they took away all of my personnel responsibilities and more or less all my other tasks. [...] [T]hat was when I was in the beginning of my second trimester, [...] I think it might be because I work in a very male-dominated sector, and they kind of think that being pregnant means you’re sick, and that’s kind of how I felt I was treated: I was made to feel that I was sick [...].**

At no point does the woman feel that her manager has acted out of ill will toward her; however, his actions demonstrate that he is unsure of how to deal with a pregnant employee, and she links this to the fact that she works in a male-dominated workplace, where the managers are not used to dealing with pregnant employees or employees on parental leave. She has “no doubts about them really appreciating me at work, [...] and the intention was never to treat me badly.” In line with this, she mentions that her manager has told her several times that she should just take a day or two off or report in sick if she feels she needs to. Even though these concerns stem from the best intentions, the woman feels they are negative. She has only been put in this position where she has the freedom to work as little as she likes, because she has had to hand over her tasks to someone else; this is annoying and has left a huge vacuum in her work day.

**” It’s not right that you’re demoted to making coffee and printing. [...] I’m not a bloody intern. [...] My day is so incredibly long now, and all I’ve got to do with myself is read the news and check Facebook. [...] I just sit there and do nothing, you know?**

Another consequence of her having handed over her tasks is that she is no longer involved in the same projects as her colleagues are, and this makes her feel excluded from the group. When she went on maternity leave the week before the interview, she was determined not to return to her job, but during the interview it becomes evident that she “is beginning to think about not looking for a new job,” that is, stay at her current workplace. This is because she believes that the consideration she was shown during her pregnancy will translate into favourable conditions when she returns to work, for example, flexible working hours and the opportunity to work from home one or two days a week. She believes that this will enable her to create a healthy work-life balance.



Several of the interviewees, especially women, describe feeling increasingly sidelined as their maternity cover, colleagues or, in a few cases, a permanent replacement take over more and more of their tasks. Consequently, some of the women feel they do not belong to the workplace anymore: “Now, I don’t really want to be here anymore,” as one of them puts it. And when they finally stop working and go on maternity leave, several of the women describe feeling “relieved”.

### **5.3.1 EMPLOYEE COOPERATIVENESS: “I WANTED TO TRY AND BE FLEXIBLE”**

Even though most of the interviewees know that pregnant employees and employees on parental leave have a number of statutory rights, they are very understanding toward the challenges an employer is faced with when an employee is absent from the workplace for a longer period of time. They are very flexible and creative with regard to planning their absence in an attempt to help their employer ensure that their tasks are completed during their absence, and as such they try to make things run as smoothly as possible for their employer. For example, a woman who holds a leading position in a large private company, explains:

**” [...] I told them when I was three months pregnant, and then I said myself that I wanted to try and be flexible [...] because I knew I held a key position. [...] I was actually very up front about it [and] gave a lot of thought to how I could help them deal with this. In fact, I offered to put in some extra time before I went on leave so I could plan everything before I left, and that I would return after six months, so I would almost be able to deal with everything myself. [...] I had to be really pragmatic about it, because it’s not... Well, it’s not always easy to find someone to fill in a position for six months when the position requires specialist knowledge.**

In this example, the woman is willing to be flexible with regard to her working hours and offers to cut her parental leave short. In another example, a female healthcare professional neglects to follow her doctor’s recommendation of not working at all for the rest of her pregnancy, that is full-time pregnancy-related sick leave, because she wants to minimise the consequences of her absence for her employer.

**” [...] I had done everything I could to find a solution to any shortcomings that might [arise] during my time away on leave. [...] [T]heir reaction was actually really negative, because they thought that it was too detailed. They didn’t think it was properly planned. [...] In fact, I’m only on part-time sick leave so I can keep working. [...] That is, I was originally granted full-time sick leave, and I know it was my own choice to convert it to a part-time leave to help the project.**

The woman, who is pregnant and on part-time sick leave when we interview her, works for a large public sector organisation where all of her colleagues are healthcare professionals and thus have specialist knowledge about conditions related to pregnancy. Despite this, her managers show little understanding toward how she has tried to deal with the challenges her absence will entail for the project she is currently in charge of.

#### **5.4 NEW CONTRACT AND DISMISSAL: “YOU COST TOO MUCH FOR THEM BECAUSE YOU’RE PREGNANT”**

Some managers react negatively when they are informed of an employee’s plans to go on parental leave, and some go beyond merely voicing their disapproval. For example, a few of the women who were interviewed have had changes made to their employment contracts, and in one case a woman was even dismissed.

**” [...] Well, then I was promoted, [...] that’s when I decided to tell them that I had just found out I was pregnant, [...] because it’s best to be honest about this kind of thing. [...] [T]hen she [the team leader] said, and I quote: ‘Okay, when I have a talk with our HR manager, this might affect the terms of your contract.’ [...] [T]o begin with they had suggested a one-year contract. [...] [I]t was changed so it only ran until [...] the day I was to go on maternity leave. That is, ten months.<sup>44</sup>**

The woman’s reaction to the changes to her contract was to think, “Well, I thought as much.” She expounds on this by explaining that the working climate is poor and the organisation has a history of offering employees short-term employment contracts. According to the woman, this is a conscious strategy so that they can change a contract if, for example, an employee becomes pregnant and plans to go on parental leave. And, according to the woman, her employer openly indicates that they will hire her again when her parental leave is over: “[A]ll the managers talked about me going on maternity leave and then returning. [...] And when they talked about me when I was away, they did so like

they were talking about someone who was on maternity leave.” Another woman tells a similar story about her employment contract that her manager “succeeded at cutting it short by six months.”

It is important to stress that being open about one’s pregnancy does not always lead to negative consequences and unfavourable treatment of the pregnant employee. For example, a woman tells that when she told her manager that she was pregnant just after she herself had learnt this surprising news, her manager responded by saying “well, you can’t plan this sort of thing. [...] of course, we’ll just keep going the way we’ve planned.” In this example, the woman’s pregnancy did not affect her planned transfer to another department, even though she had been “willing to renegotiate” should her manager have asked her to.

While a few of the women interviewed have had their employment contract shortened due to their pregnancy, other interviewees report even more drastic reactions from their employers: dismissal.

One woman tells that she was on sick leave due to stress in the beginning of her pregnancy, and when she is ready to return to work (she is still pregnant at this point), she is supposed to meet with her manager and discuss her tasks and so on. The day before the meeting, she is contacted by her manager who is new and therefore does not know her from before she went on sick leave. He tells her that “the meeting tomorrow will deviate from the original plan and will instead be about my future in the company, and that I can bring an observer if I want to.” She is not prepared for this sudden shift in the agenda; earlier that year she had received an email from her former manager: “Dear Mette, I’ve spoken to several of the deputy directors today. We are all so happy with your work. During the Christmas holiday we will work on how we can clone you so we can have more Mettes.” She immediately contacts her trade union representative, who is also surprised and blurts out, “it’s a very, very unfortunate situation to fire a pregnant employee, especially someone who has been on sick leave due to stress.”



At the meeting, the woman is first asked to sign a voluntary severance agreement, and then presented with an ultimatum by her manager: “You should be aware that if you don’t accept a voluntary severance agreement, we will examine in detail everything you have touched in the past 18 months. We will look for any kind of mistake you have made.” The woman is quite sure she has made no mistakes, but the situation itself led to a negotiation between her trade union and her employer. She explains that it ended with “me being relieved of my duties during my entire pregnancy, and they paid me my full salary throughout my entire parental leave.” Without being prompted by the interviewer, the woman points to her pregnancy – and not her period of stress-related sick leave – as the reason for her sudden dismissal:

**” [...] A few people have asked me whether I was sure that this was all because of me being pregnant, that that’s why I was fired. And yes, I am sure because [the trade union] told me: [...] ‘[W]e can only see one reason for this, and that’s you cost too much because you’re pregnant, and they anticipate that you will be sick during your pregnancy and thus be away for a long time.’ So that’s what the trade union thought. [...] [And the trade union has] registered me in their system as being dismissed in connection with pregnancy and parental leave.**

Several of the men who were interviewed have been dismissed while they are on parental leave or just before they start their leave, which is planned to last three to five months and as such is substantially longer than the average period of parental leave for men in Denmark. One of the men has chosen to go abroad for a period during his leave. He explains:

**” There I was in Barcelona, enjoying being on parental leave, enjoying football and life in general, and then [...] I get a phone call. [...] ‘Michael, you know what? I’m so sorry,’ and then he just says, ‘I have to fire you. We have a loss of DKK 700,000. We’re firing you and our accounting lady.’ [...] I was depressed for two weeks and really angry. [...] There I was in Spain, couldn’t do a thing, and then I got a call like that. I couldn’t do a thing about it.**

He is familiar with the company’s financial situation and understands why they have to let him go. However, he thinks it was unfair to tell him about it like that because instead of just focusing on enjoying his time with his child, he keeps thinking about how now he is just another number in the unemployment statistics. Another one of the men interviewed experienced something similar: during his parental leave he received a call from his employer with the rather vague message to “just come in” for a meeting. At the meeting he is presented with the news that the “new board has required some cutbacks,” and therefore they have to let him go. He characterises this news as an “outright lie”. As in the first case, his dismissal meant his attention shifted from his child to other factors during his parental leave.

**” [...] It really affected me, and I really didn’t enjoy my parental leave. My wife will tell you the same. It’s been... Well, it hasn’t been easy [...] mentally to know [...] there’s no pay check next month. That [if I] started using my savings to pay the rent. [...] It’s ruined my parental leave. That kind of thing upsets you, you know?**

Both men acknowledge that it could be argued that their employer chose to inform them of their decision to dismiss them as early on in their leave period as possible, so they could start looking for a new job while on parental leave. However, this entails a risk that the entire leave period will be spent on looking for a new job and not on enjoying quality time with their child. Therefore, they would have preferred to have been given this news upon returning to work after their parental leave. However, for the employer, it may make most sense financially to dismiss the employee as soon as possible.

## 5.5 STAYING IN TOUCH WITH ONE'S WORKPLACE WHILE ON PARENTAL LEAVE: "REALLY SCARED OF BEING SIDELINED"

Even though several of the women interviewed describe feeling "relief" when they stop working and begin their parental leave (see above), they realise that, because the entire parental leave period lasts about one year – and maybe they have had a pregnancy-related period of sick leave before that (as was the case for some of the women interviewed) – they will "have been away for so long that... Well, I'm simply not attractive for them," as one of the women says. In line with this, another woman talks about how she is "really scared of being sidelined" while she is on parental leave. A third woman, who holds a fairly high-ranking position in a large, private manufacturing company, is very strategic about being visible at work even though she is officially on leave.

**” [...] In the beginning I went in [visited the workplace] once every two to three weeks. [...] I knew that with the new organisation that was being [introduced], there would be fewer spots, so [...] if I don't show up every now and then, I won't be considered [...].**

Knowing – or sensing – that it may hurt one's career opportunities to be absent from the workplace for longer periods in connection with having a child places several of the women in a dilemma. On the one hand they do not want to jeopardise their careers, but on the other hand, because of the way in which they have been treated by their managers, they do not want to stay in contact with their workplace when they are on leave.

**” [...] I went in after a few months or so just to show off the baby, and I really didn't feel like it, but I did it [...] because it's kind of expected, [...] but I didn't really associate that workplace with happy times, and I really didn't have happy memories from working there, so I didn't really feel like going in and showing off my baby.**

In all fairness, it should be mentioned that some of the women enjoyed visiting their workplace. In part because it meant they got to see their colleagues, and in part because they could get an update on what was going on at work while they were away. A few of the women also have colleagues who "drop by for a coffee and bring a gift."

How often the interviewees check their mails or call their workplace during their parental leave differs greatly; some of them want to stay abreast of

developments at work and help out, whereas others want to “take some time off [...] and I haven’t felt guilty about that at all,” as one of the women says.

In the period leading up to their leave, several of the women feel that they are increasingly excluded from tasks that are planned for when they have gone on leave, including tasks planned for when they have returned to work. For this reason, one of the women chooses to stay in touch with one of her colleagues, who can keep her updated on relevant work-related issues.

**” And that’s when I do the math and think, ‘How can they hire all these [new] people, what’s Lars, who’s my maternity cover, going to do?’ There are just too many people. All of a sudden things don’t add up, so I write to my boss, who by the way is never in the office when I come in [...] and ask: ‘What’s going on?’, and he replies that he doesn’t know yet, but they will contact me as soon as possible, and that’s all I’m told.**

Based on her premonitions, the woman starts looking for a new job while she is on parental leave, but she does not succeed at finding one.

## **5.6 RETURNING TO WORK AFTER PARENTAL LEAVE: “HALF OF MY JOB IS GONE”**

The woman quoted above finally hears from her manager when she returns to work, and her suspicions are confirmed: her maternity cover still has a job, but she herself does not seem to have a position to fill any more. Instead, she is offered a position with less responsibility and at a lower level than she had before she went on leave. A few months later she moves on to a new position in a new company and asks her manager to dismiss her, which he agrees to do because there is a discrepancy between the number of staff and the current workload.

Even before she actually begins her maternity leave, one of the women interviewed learns that one of her colleagues has been asked to take over her position on a permanent basis. This means that she will return to new tasks even though she has no desire to do so. She tries to negotiate her way to keeping her position as it is by offering to drastically reduce her parental leave period, but her employer is not willing to budge.

**” [...] I had the most demanding job in the entire company, and it wasn’t even clear what I was being offered when I returned, and that was it. I could take the job or I would be dismissed with four**

months' notice. I was de facto dismissed [...] [F]rom having been the only person who had strategic responsibility and was responsible for areas that covered several countries, and from being part of a global hub that developed strategies, I was instead offered a job as a *brand manager* and would be jumping from project to project. [...] [T]hat is, vague, non-defined tasks, all ad hoc. [...] [T]hey were indifferent to my concerns that this job in no way matched the job I had. [...] [W]hen I think about how our organisation is structured, we have positions that include having strategic, operative, and tactical responsibilities, and that's the kind of position I had, and then there are positions that are only operative and just a little tactical, and that's where they wanted to put me, so half of my job is gone. [...] So I was offered a deal that meant I would be dismissed and – I got 11 months' pay in total.<sup>45</sup>

The woman described above is not the only woman whose tasks and responsibilities have been changed in a way she is unhappy about, and which can best be described as a demotion, when she returns to work after parental leave. Another woman, who had worked for a private sector enterprise for about six years before she became pregnant, also found that, when she returned to work after parental leave, her areas of responsibility had been drastically changed.

” You can say that [before parental leave], I was responsible for the day-to-day operation of the office. Making sure that everything ran smoothly. I had some ... that is, primarily admin work that involved planning: What time are staff coming in? Who's coming? When? [...] Real admin stuff, just making sure that everyday stuff was working, and dealing with the tasks my boss gave me, and making sure that they were taken care of, and that there was someone who could do what needed to be done. [...] I did the hiring and I did the firing. [...] And when I came back, I was a case officer, which is where I started. It's the job I did when I first started after I graduated, [...] where you deal with applications, enter data into the system, and deliver paperwork to clients. That's what was lined up for me when I returned. [...] I was given no responsibility whatsoever, and all of sudden I was working under two of my colleagues that used to work under me.

These two women's experiences are examples of how an employee's tasks can be downgraded in connection with being absent from work due to parental



leave. Moreover, they show that, according to the women's own accounts, some employers change an employee's tasks in ways that do not comply with the provisions of the Equal Treatment of Men and Women Act. This act stipulates that employees who have been absent from work due to parental leave have a right to return to work under conditions that are the same or similar to what they had before they went on leave.

### 5.7 ACCEPTING UNWANTED CHANGES: "OUR HANDS WERE TIED FINANCIALLY"

Several of the interviewees explain that their immediate reaction when they realise that their tasks have been changed is to think "I should have contacted my trade union, shouldn't I?" However, they decide not to act on this impulse, and instead they accept their new position because of reasons in their personal lives. As such, one woman explains that because of her financial situation, she sees no other option than to accept her new, less favourable conditions.

**” [...] Our hands were tied financially. [...] [W]e're in the process of moving and we might be buying a house. I'm a little... I can't deal with me being unemployed three months down the road. [...] [S]o I just choose what at the time seems to be the easy way out and say: 'Okay, I'll just have to accept that.' [...] [I]f I had been living where I live now and had had the security I have now, I wouldn't... I would have fought them.**

One of the women interviewed felt she was forced to accept a shorter period of employment because of circumstances in her personal life even though she would have preferred to fight the unjust treatment she experienced.

**” [...] Today I would have fought this and would have taken it to my trade union, but at the time I was terrified of losing my job. What's more, even though I was in the beginning of my pregnancy, I was in the middle of a divorce, so I simply couldn't deal with losing my job. [...] I simply couldn't deal with the consequences at that time.**

In contrast to several of the other interviewees who are afraid of losing their jobs if they do not accept their changed working conditions, one of the men interviewed expresses a different concern: he is more worried about not being able to get another job in the industry if he chooses to instigate legal proceedings instead of merely accepting being dismissed while he is on parental leave.

**” [The trade union] says that they think we have a case. So if I’m up for it, we can fight this, [...] but I also know that this might hurt my opportunities in the future. [...] I’ve never heard about anyone else [within my field] who’s filed a case about being fired during parental leave. I’ve never heard about anyone else, and I certainly don’t want to be the first, because it’ll hurt my chances of finding another job. [...] I don’t want to slam the door on the way out.**

This man is afraid that other people in his sector, including potential future employers, will hear that he has been dismissed, and that this will hurt his chances of finding a new job. However, he does eventually find a new job before his notice period expires.<sup>46</sup>

### **5.8 INVOLVING THE TRADE UNION: “I MUST HAVE BEEN A LITTLE BIT UNLUCKY ABOUT WHO I GOT HOLD OF”**

Whereas several of the interviewees choose not to involve their trade union for personal reasons (see above) even though they know that they are protected against discrimination during pregnancy and when on parental leave, others immediately contact their union representative or trade union to get help or advice.

The way in which they describe the reaction they are met with from the trade union representative and trade union differs greatly. Several of them are very satisfied with the legal advice they are given; it prepares them to deal with the experienced discrimination they have encountered from their employer. And some of them are dissatisfied with the support and advice they get. For example, one of the women interviewed says that, in her eyes, her trade union representative worked against her rather than for her when dealing with her manager, who wanted to change her employment contract when he heard about her pregnancy.

**” [...] At the meeting with my team leader who is also my union rep, [...] she says to me, and I quote, ‘Okay, when I have a talk with our HR manager about this, it might affect your contract.’ So she just came right out and said that, and [...] she’s supposed to be my union representative. But that’s just grotesque. [...] I don’t trust her one bit. [...] [H]ow can I trust that she’s on my side?**

Even though the union representative knows the woman has been the victim of discrimination, the woman's contract is cut short. After this, things deteriorate between the two parties with the woman on the one side and her manager and the trade union representative on the other. Even though the trade union representative/team leader is friendly toward her when she returns to work after her parental leave, she cannot forgive and forget, and this affects their collaboration. In the end she goes on sick leave due to stress and chooses not to return to her workplace.

One of the women interviewed, who is familiar with the statutes that protect pregnant employees against discrimination, describes how she contacts her trade union several times whilst she is on parental leave, because she has learnt that her maternity cover has now taken over her position permanently, and she realises that when she returns to work, she will be returning to new tasks and less responsibility. She has mixed feelings about her trade union; she contacted them twice about the situation and was left with the feeling that there was nothing she could do. However, because she knows she is protected by law, she contacts them a third time, and this time things are different.

**” [...] Well, I must say, after I finally got hold of her [the employee from the trade union], I've been thinking, 'What on earth were they doing those first two [employees that I spoke to]?' [...] I was actually upset every time I had spoken to them, because I felt like I had no rights whatsoever. [...] So I must have been a little bit unlucky about who I got hold of. And then I got hold of a woman [...] from the trade union, who understood my situation straight away and said, 'That's simply not okay. You need to write this and this.' [...] [I]t wasn't until I got hold of someone from the trade union who actually took me seriously that I got backing about actually probably having a case and that I could have done something, and that's kind of disappointing.**

These stories show that the women do not feel that they get the support and advice that they would expect to get as members of a trade union. The last story shows that the trade union can provide the help (and possesses the knowledge) they need, but only if the member is directed to the right employee. The woman finally terminates her contract with her employer without pursuing her case further, because she is afraid of the negative consequences it might have if she is dismissed. "If I'm fired now, I would be worse off than if I were to be fired when I return to work, because then my period of notice would coincide with my parental leave."

One of the men interviewed also voices concerns about the precariousness of being dismissed while being on parental leave, because there is risk that one's period of notice will partly or completely coincide with one's parental leave. The man in question was dismissed for legitimate reasons whilst he was absent from work during his parental leave. Because his parental leave is longer than his notice period, he does not stand to gain anything from his notice period.

**” [...] I spoke to [my trade union] about it, and they [his employer] offered me a deal where I completed my three-month parental leave May, June, July, and then in August, when I was supposed to return to work, I would officially be dismissed and my notice period of five months would begin.**

The man, who has a degree in law, is satisfied with the agreement, including the help he got from the trade union to negotiate the terms, and stresses that he thinks it should be a “legal requirement that a dismissal during parental leave should not enter into force until the day the employee returns to work.” This would benefit the woman whose story we heard above who is faced with the prospect of her parental leave coinciding with her notice period.

## **5.9 CAREER CONSEQUENCES: “I’M NOT AT ALL KEEN TO MOVE IN THAT DIRECTION AGAIN”**

Several of the interviewees have felt that their careers have suffered as a consequence of the negative situations they have experienced. For the individuals who were dismissed, the most obvious consequence of their dismissal is that they have to find a new job, and for some of them, this means having to report to the jobcentre. A few of them regard this as a personal failure: they have gone from having a steady job – and for some an important job – to having to report regularly to their local jobcentre. They have been used to managing on their own. One woman explains that she had moved on from “being bitter” after having been treated unfairly at work, but when she enrolled in the unemployment system, she “just lost it,” and actually “had a relapse”. Nevertheless, she manages to move on fairly quickly and the whole experience had a positive ending, because “after [name of enterprise], I got a better job here than I had there.” In line with this, one of the men interviewed tells, “I will be beginning a new job on Monday. [...] Higher salary and what not, so I’m almost grateful for” being dismissed. Similarly, one of the women interviewed tells that losing her job gave her the motivation to realise a dream she had had for several years.

We also see examples of how individuals, who were typically well-educated and resourceful, get through these situations and come out on the other side happy in their new jobs. However, it should be noted that despite the positive endings, these individuals also felt frustrated and angry when they were robbed of their tasks and responsibilities, or were demoted or dismissed.

There are several cases where things had not ended well at the time of the interview. In fact, far from well. In one case, a woman with an academic degree whose contract was changed when she told her employer that she was pregnant feels that the discrimination she has experienced has led her career to collapse, and she cannot see how she can find her way out of the situation she has been put in against her will.

**” [...] I was actually on sick leave for a whole year [because of work-related stress], and then I was unemployed for a year, and now I work in a kindergarten. [...] [So including my time on maternity leave, I] actually didn't work for three years. [...] [T]hat's a very, very, very long time to be absent from the labour market, and [...] today it's quite a disadvantage for me. [...] I see that people who finished [university] after me, they've all got good jobs, and then I think to myself: 'Well, and you just work in a kindergarten'. [...] [I]t kind of makes me feel like I failed. I find it very hard to see how I can get back in [that field] again. [...] [F]or me, it's kind of been a blow where I've... I'm not at all keen to move in that direction again.**

It is very evident that this woman's experiences not only affected her employment situation at the time, they have also affected her career in general. She explains, "I went from being someone who was thinking about doing a PhD," to working in a kindergarten as an assistant with no special training, a position that does not match her ambitions and education level. Even though she does not know what kind of work she will have in the future, she is very clear about what she does not want: "I sincerely hope that I won't be working in a kindergarten for the rest of my life."

Even though it is not the career she had envisioned for herself, she at least has a job. One of the other women interviewed does not even have that: she has been on unemployment benefits for two years even though, "for 18 of the 24 months I've been in some sort of job scheme for unemployed people." This has not only affected her financial situation, but also her mental state. She describes how "I have a good cry two or three times a week."

One of the interviewed men explains that the direction his career has moved in over the past few years means “that I’m not going to get a job. So in a way you can say that it’s had serious repercussions that I was fired.” He goes on to explain that workwise he has been “trapped in a corner”, and as a consequence of this he no longer has the knowledge required for him to be able to apply for the positions he should be able to apply for considering his legal training.

### **5.10 HAPPY ABOUT THE DURATION OF THE LEAVE PERIOD: “HE EARNS MORE AND I WORKED WEEKENDS”**

Most of the women interviewed took the largest share of the 32-week parental leave period that both parents can divide between them. Some of the women explain that this distribution was based on their partner “not wanting to stay at home and I really wanted to,” as one of the women says.

**” [...] My husband, he didn’t take any leave, and he didn’t want any leave. [...] [H]e’s married to his job. [...] Well, he was entitled to two weeks’ paternity leave, but he didn’t even take them. [...] It’s about feeling a sense of loyalty to your employer, you know? [...] [H]e knew very well that if he went on leave that that would send a signal, and maybe [...] he wouldn’t be first in line the next time it was time for a promotion, you know?**

However, several of the women also report that the way they have split the 32-week parental leave period with their partner is directly linked to the family’s financial situation; that is, money and not their personal wishes dictate their choices.

**” [...] He only took two weeks of paternity leave, I think. He earns more, [...] and I worked weekends and late at night. So it was best for all of us; that I took the leave. [...] [W]e both agreed it was best. That it was best for all of us to do it like that.**

The fact that a family’s financial situation, including the man’s and the woman’s salaries, collective agreements and whether or not they are entitled to paid parental leave, is more important for how the mother and father choose to split the 32-week parental leave period between them is evident from the statement below by a woman who earns more than her husband.<sup>47</sup> In this example, the man chooses to take much more parental leave than the 30 days that is the average length of parental leave for Danish men, whereas the woman chooses to take less than the 271 days women take on average in Denmark (Statistics Denmark 2015a).

**” [...] I think I’ll end up taking eight months. [...] I think he’ll take three [months]. [...] I make more than he does, so I really should get back as quickly as possible, and then he’ll take what’s left of our parental leave. [...] [I]t’s a much better deal for us that he takes the leave than me taking [it].**

### **5.11 SUMMARY**

The objective of Chapter 5 is to provide examples of how individuals experience discrimination in their everyday lives. This part of the report is based on interviews with 18 individuals who have experienced discrimination in connection with pregnancy or parental leave. This chapter is organised in the same way as the quantitative survey (and Chapter 6); that is, the overall themes are job search, being pregnant and working, being away from work due to parental leave, and finally, tasks and working conditions after parental leave.

Several of the men and women who were interviewed have been asked about children during a job interview. Several of them state that they felt like if they had said that they were planning to have children in the near future during an interview, this would have harmed their chances of being offered the position. For this reason, some of the women have refrained from looking for a new job while they were pregnant. One of the women, who went to a job interview when she was pregnant but did not tell the employer this during the interview, reports that she was accused of being unethical by her prospective employer.

A few of the interviewees inform their employer about their pregnancy at an early stage. The most common reason for doing this to protect the unborn child, but also to ensure that their parental leave can be planned as smoothly as possible for all parties. Several of the women experienced that their tasks were changed after they had revealed this information. Some of these women inform their employer about their pregnancy because the nature of their tasks poses a health risk to their unborn child. And some of the women report that their tasks are changed by the employer in an attempt to be prepared for possible sudden cases of absence due to pregnancy-related sickness. The interviewees’ stories include examples of tasks that have been so drastically changed that the employees feel they have been demoted. There are also examples of changes made to employment contracts, so that the employment period ends the same day the woman begins her maternity leave, and there are examples of employees who have been dismissed.

How close a tie to their workplace they maintain during their leave varies greatly from interviewee to interviewee. Some women have no strong feelings toward their workplace and keep their contact to a minimum, for example because of the way in which they were treated during their pregnancy, whereas other women are very keen to stay in touch so they can keep abreast with developments at the workplace and avoid appearing non-attractive to the workplace due to their (long) absence.

A number of women do not return to the same or similar tasks when they return to work after parental leave. They report that their tasks and areas of responsibility are taken away from them. Some women accept these changes because they, due to personal reasons, do not want to confront their employer. However, one woman chose to stand up to her employer; her resistance resulted in a severance agreement.

Because of the discrimination the interviewees have experienced during their pregnancy or whilst on parental leave, several of them contact their trade union or trade union representative to ask for legal advice and guidance. In this situation, some of the interviewees are given qualified advice, whereas others get little or no help at all.

For several of the interviewees, their negative experiences at work have resulted in their careers moving in an unfortunate direction. They describe their experiences and the consequences these experiences have had as personally frustrating and tough. For some of the interviewees, their experiences have led to long-lasting changes in their working lives.

With regard to how couples choose to share the parental leave period, several of the interviewed women explain that they based their decision on the family's financial situation; that is, money and not their personal wishes dictate their choices. However, several of the interviewees also explain that the woman was more eager to stay at home on parental leave than the man.



# CHAPTER 6

## ANALYSES OF EMPLOYER PERSPECTIVES AND PRACTICES

**By Lynn Roseberry, On the Agenda**

The aim of this chapter is to present examples of what six different employers, who employ between several hundred and several thousand employees, do to comply with the legislation concerning pregnant employees and employees on parental leave. First, we describe some general similarities and differences between the employers with whom we spoke. The rest of the chapter follows the same structure as the survey in Chapter 4, that is, it is organised in the same four chronologically organised themes. This is done to illustrate how employees may experience discrimination in the workplace even though their employer is obligated to comply with the Equal Treatment of Men and Women Act.

### **6.1 EMPLOYER SIMILARITIES AND DIFFERENCES**

The employers interviewed explain that they provide information about women's statutory rights with regard to pregnancy and parental leave to managers who recruit. In all six organisations, managers are assigned a specific HR staff member (a so-called local HR partner), a personnel consultant or another administrative employee, whom they can consult if they have any questions. All of the individuals interviewed emphasise that ultimately the individual manager is responsible for ensuring compliance with the statutory requirements regarding equal treatment in connection with pregnancy and parental leave, and that such compliance hinges on the individual manager's managerial style, personality and knowledge about, as well as attitude toward, equal treatment in connection with pregnancy and parental leave.

The employers fall into two categories: 1) organisations where the presence of trade unions plays a role, and 2) organisations committed to gender equality and diversity management.

Two of the interviewees mention trade unions as important players with regard to their employer's compliance with regulations regarding equal treatment and parental leave. This is for example seen in the following quote:

**” And I have to say, we base almost everything on the parental leave agreement, but then we've also got [...] the trade unions breathing down our necks. So you could say, if someone feels like they haven't been treated fairly, well, then they'll do something about it, and then there's a lot... Well, you could say that if you're on parental leave or pregnant, well then you really are COMPLETELY protected by the law. That is, it would cost a fortune [...] not [to] treat them fairly.**

In the interviews we conducted with the representatives from two other employers, trade unions are not mentioned at all as a factor. These employers have been especially focused on diversity and women in management for a number of years. One of the employers has hired a manager with specific training in diversity management who only deals with these matters. The other employer has an HR manager who knows a lot about diversity management and is very committed to this, as well as a CEO who is also very committed to diversity management. The managers and employees in this organisation are involved in efforts to increase diversity and gender equality, and the organisation allocates resources to employee networks and other similar activities to promote gender equality, diversity and inclusion. None of the other employers interviewed mention diversity management or any other special management practices as a factor with regard to the way in which their managers deal with pregnancy and parental leave. These employers only talked about complying with the Equal Treatment of Men and Women Act, parental leave regulations and about management in general.

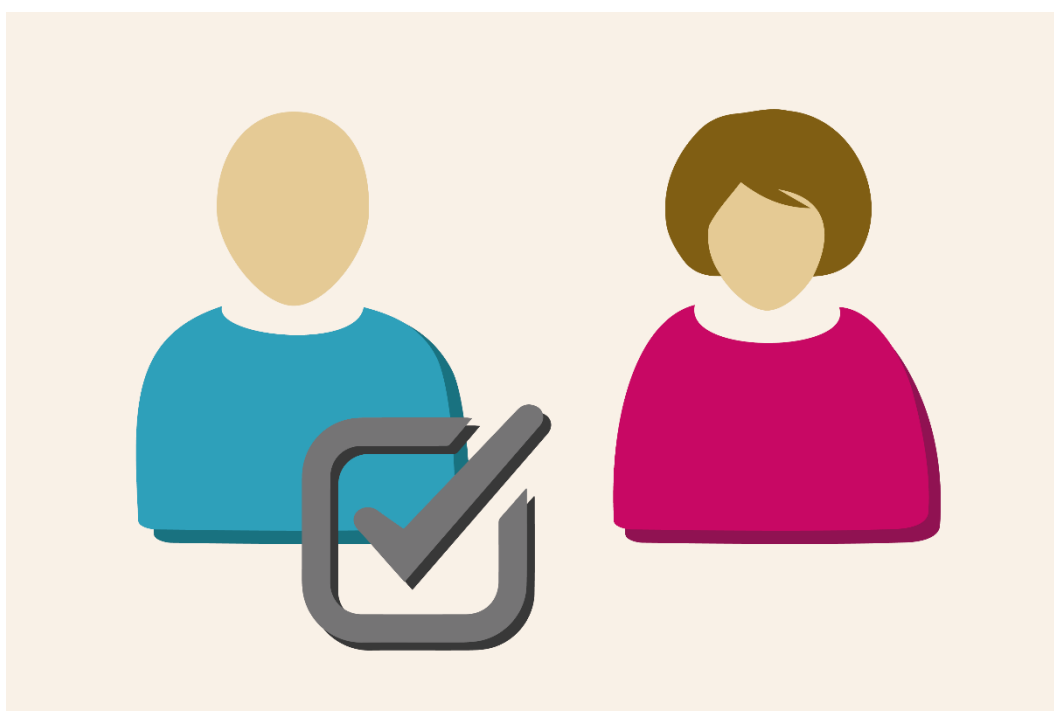
## **6.2 RECRUITMENT**

Because none of the interviewees participate in job interviews, they have no direct knowledge about whether questions about pregnancy or the applicant's plans to have children are asked during the interview. Similarly, none of them are aware of cases where an applicant was asked about pregnancy or their plans to have children.

As is seen in the quote above, some of employers feel the “trade unions [are] breathing down our necks,” and they are very aware that it “would cost a fortune” if they fail to treat pregnant employees fairly. On the other hand, the

individual who is quoted above says that she cannot rule out that some managers will not hire a young woman because they believe that pregnancy and parental leave interfere with business and are a nuisance.

**” [...] This makes me think of a [manager] I once had myself. He was the kind of guy who probably wouldn't hire... That is, if he had to choose [between] hiring a younger man and a younger woman, he would choose the man. Then again, he's also the type of guy who would fire a terminally ill employee, you know? That kind of person. So, you know, not a good sort. [...] It's not my impression that there are a lot of [managers] like that out there.**



The HR manager in another organisation acknowledges that covering the costs of wages for women on parental leave is probably the greatest challenge for smaller businesses. Especially “if the business has 10 employees or less.” This can also challenge the finances of larger organisations in cases where the organisation lacks a system for sharing the financial burden of parental leave between its departments. She explains that some years ago the organisation that she works for began to “focus more and more on the profitability of each department.” They used to have separate budgets for separate departments, but this was difficult for some of the heads of department who came to her and said

they “didn’t want to treat anyone unfairly, but that it ‘is really difficult for me to cover both wages.’ That is, if you’ve got a team of five but you’re paying wages to more than that.” As a solution to this problem, the organisation changed the way in which it shared the financial burden of parental leave.

**” When you’re on parental leave, whatever you cost is covered by a joint account, and this joint account is split between all [the departments], because that way we won’t be faced with the ‘this is a problem for me’ situation. [...] [T]hat is, we can prevent a situation where we’ve got a manager who’s [...], thinking ‘Oh dear, how am I going to cope with this financially?’ which is what you might expect, potentially.**

She goes on to stress that these changes have made it easier for the organisation to deal with the reimbursement from the state of parental leave pay-outs, because “they are just paid into the same account and then we divide the money between the departments.”

However, not all organisations use this model. In another organisation that participated in this survey, payments to cover parental leave pay-outs have not yet been centralised. Instead, each unit covers all costs in connection with pregnancy and parental leave for their own employees. The interviewee does not know whether this means that some managers refrain from hiring pregnant or young women for financial reasons. On the other hand, the interviewee reports that she has never heard anyone refer to parental leave as a problem because of the costs. Instead parental leave is referred to as a disturbing factor that interferes with work.

An HR manager from another organisation explains that, in her talks with the organisation’s managers, she does not sense an unwillingness to hire pregnant women. As an example of their willingness to hire a pregnant woman, she describes a situation from a few years back.

**” We had a department that really wanted to get hold of a [specific] person, that is, hire from outside, because they thought she was fantastic, and we prepared a contract, and everything was ready to go. And then she got back to the manager and told him that she [...] was in the middle of fertility treatment and stuff. And that they wanted [...] to give it one more go to find out for sure whether she could get pregnant or not, you know? And so she decided to say no to a job with us, because she thought it wasn’t fair, you know? And then the**

**manager called me. He was just so upset about it, and I just said, 'Well, why don't you just hire her anyway?' And then he was like, that I was so right, and then he called her and said, 'Look, we don't care. We want to hire you anyway,' and then she started working for us, you know?**

This example shows, with regard to complying with statutory requirements about equal treatment in connection with pregnancy and parental leave<sup>48</sup>, how dependent employers are on their managers and how these managers understand this obligation. Managers need to know enough about gender equality and discrimination in order to know that they should seek advice when faced with dilemmas that they cannot deal with on their own.

### **6.3 PREGNANT EMPLOYEES**

One significant difference between the employers who were interviewed seems to be that some HR departments are primarily focused on complying with regulations, whereas others – in addition to complying with the regulations – are also focused on how management manage pregnant employees.

The following statement from an HR manager seems to sum up the general attitude among three of the interviewees: “As a public sector organisation, you can't do much more than stick to the rules.” His next statement indicates that complying with the rules was particularly problematic for the organisation for a period:

**” To comply with the rules, you need to understand them, and the regulations about parental leave that we have now are from 2002-2003 and at that time they were ground breaking. So many new things were introduced. But since then, not much has happened.**

On the other hand, his HR department does “nothing special to inform [about pregnancy and parental leave regulations], [...] because making sure you comply with the Equal Treatment Act is – at least for by far the majority of administrative workplaces – simply just a natural part of being a manager.” The managers he knows who work for the government “have simply been raised to do this.”

Five of the employers we have spoken to each have their own standardised procedure that is set in motion the moment an HR department learns that an employee is pregnant. As one of the HR managers puts it, “There's a lot of

bureaucracy involved. All rights are covered by bureaucracy; if they weren't, things wouldn't work."

In the large organisations, what the managers or the HR department do when they learn that an employee is pregnant varies from organisation to organisation. One of the large employers included in this analysis explains that the first step is to "inform the employee that she is covered by specific regulations, and that after you have given birth, you must remember to inform your manager and make an agreement with him or her about how you plan to organise your parental leave." One of the other large employers has a system where the HR department sends a letter to both the manager and the pregnant employee.

For all six employers, the actual authority to enter into an agreement lies with the manager at local level. The six individuals that we interviewed describe the same scenario: if a manager is unsure about any of the rules, they contact someone from HR. Two employers help managers negotiate the terms of the agreements based on a checklist where the manager can tick off the different options available to the employee pursuant to the Parental Leave Act. Another employer follows a procedure consisting of a "detailed guideline including several forms that must be filled in at specific intervals. It's structured very logically so you can easily see which form you need to fill in and when."

One of the HR employees in this group finds that explaining all the different options available under the Parental Leave Act is very challenging. The law allows for so many variations that it is difficult to cover all of the options in a single, standard form. She admits that it can be challenging for managers to navigate the many rules.

**” Well, if you're a manager and it's the first time one of your employees is going on maternity leave, it can be difficult to just say, 'Well, let's just see what your options are.' It's not because there's no help to be had out there, but when you're on your own, you're in charge, and sometimes it's difficult to understand these things, the guidelines, you know.**

It is precisely when negotiating the terms of a parental leave agreement with an employee that a manager's subjective feelings about pregnancy and parental leave can sometimes lead to a situation where the pregnant woman feels she is being treated unfairly. Nevertheless, this particular HR employee feels that gender equality in connection with pregnancy and parental leave has become so institutionalised that any differential treatment will be caught by the system, and so managers are quick to rectify such a situation. She explains:

**” If it does happen, well, then I’m sure it’ll be dealt with long before... That is, if a woman is offered a bad deal by her manager, then I think her union rep will help her. So, I think it’s dealt with at the local level. And then things are sorted out. Well, of course we sometimes have a manager who calls and asks; ‘Is it really correct that ...?’ But then we just say, ‘Yes, it is.’ ‘Oh, okay.’ And that’s the way it works. This issue can be addressed at so many different levels. There’s the local HR [team], and the trade unions, who are active at departmental level, and then there are the employees, who have the day-to-day contact to the managers with regard to recruiting and salary and so on. So people at all levels know the rules that govern this area.**

Three other organisations have a very different approach to managers than the first three organisations. The three interviewees in this group were more attentive to whether a manager’s attitude toward parental leave affects the pregnant employee’s experiences with regard to going on parental leave, and indicate that it is important that a manager sends employees on parental leave in a good way.

An HR manager who works in the smallest of the three organisations describes the managerial challenges she is faced with.

**“ It’s all about how you send people off on [parental leave], you know? Some people need to close down everything, and some people need to, well, if we look at the period from four weeks to zero weeks before the woman gives birth... Well, that transition period where the baby hasn’t come yet, some people want to keep going because they just can’t let go, because they think it’s hard to stop working for something [giving birth] that hasn’t happened yet. [...] So, it’s something we tell managers they need to be aware of: ‘Think about the signals you’re sending when you send someone on parental leave, think about how they may perceive these signals,’ you know? [...] Because, in a misguided attempt at showing consideration, some managers say, ‘Well, I don’t want to bother you while you’re on parental leave.’ And this is heard as, ‘I’m a nobody, they’ve forgotten all about me now that I’m on leave.’**

This HR manager also explains that while the majority of male managers in the organisation are fathers themselves and are happy on behalf of their employees who have children, sometimes they have “differing views on how much an employee on parental leave is entitled to.” In her organisation, people work long hours, and sometimes people get “a little bit upset about colleagues who are on parental leave.” Furthermore, some of the top executives think that “having an employee on parental leave is still relatively hard on the finances and that we should minimise this expense as much as we can now that he/she can’t contribute to sales and billing.”

**” I can feel that there’s a huge difference from person to person [read: manager to manager] with regard to, if we are to take the extremes. ‘She’s at home and we’re paying the bills?’ Well, that’s like at one end of the scale. [And] at the other [end]: ‘Yes, but we want women to work here, and she’s really good at what she does, and I’m sure we can find a meaningful job for her when she returns, and then she’ll be just as valuable, and I’m sure she’ll be more efficient in another way once she’s become a mother,’ you know?**

She also tells about her own experience from another workplace in the same sector “where a very intelligent man in all seriousness believed that, when a woman returned to work after parental leave, she should earn less than before she went on leave.”

One of the HR employees that we talked to stressed that preparing written policies and personnel guidelines for managers will not solve the management challenges related to pregnancy and parental leave. She sees that managers have a tendency to focus on work issues rather than on the employee. That is, they think more about how to get the work done while the employee is away, and therefore forget to think about the actual person who is going on parental leave. She thinks that managers forget to think about the individual because parental leave is not directly related to the organisation, but is a very personal and individual matter.

**” And generally if you’re a man, a lot of our line managers are male, then you also feel that you don’t necessarily want to ask the woman lots of personal questions and you think she’ll come to you with the solutions. So I think it’s a tough one and I’ve seen it in the UK where line managers just wouldn’t speak to**



**women, as soon as they got pregnant, it's like they were the untouchables.**

With regard to the women, the HR employee that we talked to here, thinks that a lot of women do not believe that they can have the career they want because they have a child and go on maternity leave.

**” I've seen it now a lot with this training course we did where we had 30 odd women. [...] [T]hey feel like they need to ask permission. So if you're a confident senior woman in a company and you're about to go on maternity leave you will sit and say, 'Right, what's going to happen to my job? I know that I want to come back and I want to come back to the same job, I expect that within the next two to three years I'm going to be promoted because of those discussions that we've had. I've spoken to my stakeholders. Everyone is happy with my work [...].' You would manage it, you would purposefully manage it, if you haven't got that confidence beforehand you are going to have even less when you come back anyway. So you may not question some of the decisions that have been made in your absence around your role, around your responsibilities, around the future of your career.**

The three organisations represented here do more than just make sure that they have implemented the rules they are required to by law to secure the rights of their employees. They have taken different approaches to preparing their managers to be able to discuss with their pregnant employees what their wishes are. Not just with regard to parental leave, but also with regard to their future careers.



In one of the two large organisations that has a history of addressing gender equality and diversity issues, efforts to prepare managers for having this kind of talk with their employees have been organised so that both before and after an employee goes on parental leave, the HR department writes to the manager and the employee in question to remind them to have this talk. In this organisation, it seems as if the managers are very aware of, and willing to, offer pregnant employees career opportunities, including promotions, throughout the period of their pregnancy and sometimes even also when they are on parental leave. As an example of this, the HR manager shares a story from her own maternity leave. She was promoted to head of HR three weeks before she went on maternity leave. Because of this, her employer had to hire two maternity covers, one for each of the positions she held at the time she went on leave. “Sometimes this is possible, and sometimes it’s not due to business conditions. Especially when a very talented woman goes on maternity leave, they do what they can to make sure the woman’s career progresses in a way that suits her.”

In the smallest of the organisations that participated in this analysis, a systematic approach to how to prepare managers is still not in place.

**” It’s more like an on-going process. That is, we’re just more like a sounding board, and of course we could take a formalised approach to this. [...] But it’s been more like I’ve just had a talk [with each individual manager] depending on: Do I know them? And typically they will come to me and say, ‘So, I’ve got an employee who’s going on maternity leave, is there anything I should be aware of?’ And then we say, ‘No, but remember to contact her every now and again when she is away.’ So, it’s really rather informal and case-by-case [...]. One of my team is very structured... I actually think she has made a little checklist, [...] and we could have sent that to everyone, and [...] well, only one in ten would remember that they’ve got it, right? But of course you could do that... Have a more formalised procedure, you know? Right now it’s more just like ad hoc advice when we run into the person in question, or when we know that someone has returned to work, and every now and then we send out a mail or something from us.**

One of the HR employees, who is responsible for diversity in another organisation, explained that she thinks the key to ensuring that women do not have bad experiences at work when they become pregnant and go on maternity leave is to prepare both the women and their managers for having a talk about what they want and expect from each other in this situation. The employer must help managers be more proactive and help them understand that not all pregnant women will approach their manager and openly say what they want, especially if the woman does not have enough confidence in herself or her manager. She believes that managers should have an open and honest talk with their pregnant employees about their situation.

To help women on maternity leave, her organisation is planning to introduce a coaching programme for these women. To help both the pregnant women and their managers, the organisation has invested in an IT-based solution – an internal parental leave portal so to speak – from an external provider, which will be implemented in January 2016. The portal is for mothers, fathers and managers and covers the period leading up to, during and after parental leave. It will include videos with employees who talk about how they experienced being on parental leave. It will also include reminders to managers that they need to talk to their employees and provides inspiration on how to approach such conversations. Finally, it will include advice and tools that employees can use to deal with their stakeholders during their leave.

Two employers describe the structured systems they have set up to prevent personnel cases where an employee is dismissed or other decisions that may have negative consequences for pregnant employees and employees on parental leave. One of the HR employees explains:

**” [...] When we bump into personnel cases that involve an employee who is on parental leave or is pregnant, or who is receiving fertility treatment, [then] the HR department is very clear from the very beginning that there may be a gender equality issue that increases the requirements of the manager – that increases the requirements for the documentation – and in that way we force the manager to really think about whether this is all about the manager actually being annoyed about her going on maternity leave, or is it because they think it’s the most practical thing to do, because she’s been gone for a year. We need to eliminate this line of underlying – and sometimes subconscious – thinking. [...] [I]f an employee who is on maternity leave or is pregnant is to be given a warning or dismissed, it has to be based on completely objective grounds. Because if it is, then it’s possible.**

An HR employee from another organisation describes the procedure used when there are staff cutbacks in the following manner:

**” And it’s covered by all the other procedures we have. So, when we have redundant staff or we’re cutting back on staff in general, well, then we automatically check whether any of them have just returned to work after being on parental leave, you know? And then they are automatically removed from the list, or as a minimum they are assessed before. [...] So we know they’re there and we know what the situation is, and in by far the majority of cases, we remove them from the list, you know? I think we’ve only had one single case, [...] where we shut down an entire division, and then it’s like, well that’s the way it is, right? And it’s within the boundaries of the law.**

#### **6.4 EMPLOYEES ON PARENTAL LEAVE**

The six employers included in this study represent a mixed picture with regard to how they deal with employees on parental leave. On the one hand two of the organisations focus on gender equality and diversity. These two organisations

have promoted “plenty of” employees before, during and after parental leave. The HR manager describes their approach:

**” And we also do this in connection with our salary increase programme, every time it’s put into action, we check for anyone who is on leave and therefore not active in the system, they’ve been removed from [the list], and then we deal with them separately, so we’re sure no one is passed over just because they’re on leave.**

On the other hand, an HR employee who works for one of the other employers, thinks that her employer has a problem with regard to salary negotiations for employees on parental leave:

**” Well, I’d have to mention salary negotiations. I think this is a huge problem for us. I actually experienced it myself. I had our first two children, [...] before I handed in my dissertation [at university], and then I had our first three weeks later, and I became pregnant with [my second] child four months later. There was only a 13-month gap between [them]. And then I had our third child, and because you can say that our salary negotiations were based on the previous year, I didn’t get anything because I was due to go on maternity leave and would be away for a long time. But then I was passed over for salary negotiations when I was on maternity leave too. So you can say that from 2012 to 2014, nothing really happened. I think that that might also, um, be a problem. Of course, you could also say that I should just have contacted my trade union and asked them: ‘Is this okay?’**

Assuming the two organisations described above represent the extremes on the scale, the smallest of the organisations that we talked with can be placed in the middle. It is not completely clear where this organisation stands with regard to how it treats employees who are pregnant or on parental leave. In this particular organisation, an employee’s salary consists of a base salary and a bonus, which is a very common construction in the consultancy sector. Employees who are employed in this organisation but who are on parental leave get their bonuses. However, the bonus may be smaller than had the employee not been on parental leave; the reason for this difference is unclear.

**” [...] This could be a problem depending on [...] how long you are away and what your bonus is and so on while you are away. [...] Not that many [...] in the business [...] that I know about pay a bonus that matches what you would have got if you weren't on parental leave. [...] [W]hen you're not at work, you're removed from our systems. And that means your bonus is smaller, right? Obviously this is a bigger problem for women because they're away for longer, but in principle it's the same for men and women, right?**

### **6.5 RETURNING TO WORK AFTER PARENTAL LEAVE**

The HR employee who works in the organisation that is currently introducing a coaching programme and an internal pregnancy and parental leave portal monitors return frequency and retention rates. She explains that her organisation decided to implement these new initiatives because a number of their female employees do not return after parental leave. They retain approximately 72 per cent of the women for the first two years after parental leave. The percentage who return to work after their leave is greater than this, but 80 per cent of the women who leave the company do so within the first year after returning. She points out that in the UK, best practice is a 90 per cent return rate and 85 per cent retention. She does not know what the figures are for other enterprises in Denmark. She is not sure of whether this is because the numbers do not exist or because enterprises simply do not share this information.

Even though the organisation she works for loses female employees who have been on parental leave, none of the HR staff that we spoke to finds that retaining employees after parental leave is especially problematic. The only issue that is mentioned is that, because the parental leave period is so long, sometimes an organisation may have changed whilst the employee has been on parental leave. A consequence of this may be that employees cannot return to the same position; pursuant to the Equal Treatment of Men and Women Act, employees are only entitled to return to a similar position with terms and conditions that are not less favourable than those they had before they went on parental leave.<sup>49</sup> None of the organisations mention this legal claim as being particularly problematic.

The individuals that we spoke to made it clear that how an employee experiences their return to work after parental leave depends on how competent their manager is. Thus, to demonstrate how important the manager's

actions are, a male HR manager shares his own experience of going on parental leave before he was made head of HR.

**” [...] When I returned to work after being on parental leave with my twins, my employer simply hadn't given any thought – whatsoever – to what my role should be when I returned. So there was just this big void when I came back. It was extremely frustrating and it almost cost me my career. I'd just finished a leadership training programme [before I went on parental leave], and I had kind of expected to come back to something interesting, like maybe try being a project manager or something like that. [...] [I]f that's how managers treat people that have been gone for just three months, then we have a problem with regard to gender equality – a real problem and not just a legal problem. It's simply ... That's just not what's meant to happen when you go on parental leave.**

When we ask him whether he knows about any similar cases in the organisation where he is currently working as the head of HR, he says no. Before he was interviewed, he had spoken to one of their trade union representatives who had also said that she had no knowledge of any problems related to employees returning to work after a period of parental leave.

When an employee experiences a smooth return to work, this is most often because the manager in question has ensured that the employee has a meaningful job to return to. Large organisations take action to ensure that both the manager and the employee have thought about the employee's return. The following example is from a private company.

**” [...] We write to the employee, that is, we send them a physical letter when the time is approaching for them to return to work, and in that letter we tell them that their manager will help them find that job, and if their manager fails to do so, then they should contact HR, right? So they [the employees] know who to turn to if there are any problems. If they are unsure of anything, you know? That's kind of what we want, that we can say, 'Well, we expect things to be taken care of,' and most often they are, now don't get me wrong. We have some really good managers, [...] but things sometimes go wrong anyway when you've got 300 [managers]. [...] But it's kind of our way of making sure that they know where to turn if things don't turn out the way they expect them to.**

The head of HR in another organisation says that having competent managers is important for all aspects of gender equality.

**” I bet if you found some of the discrimination cases it would be interesting to see who the line managers were and actually how they were rated by their teams anyway, because I’ll bet they’re just poor line managers and they slip up more when it comes to these personal issues that are actually their responsibility to deal with a certain workplace.**

## **6.6 SUMMARY**

The interviews with the employers from six large organisations indicate that several factors affect whether an employer is capable of complying with regulations about equal treatment in connection with pregnancy and parental leave: how the costs of parental leave are distributed, the presence and influence of trade unions, the quality of the HR department, and managers’ attitude and approach to pregnancy and parental leave.

The employer’s attitude toward parental leave seems to be the most important factor. When management, including senior management and/or the HR department, only perceive parental leave as an expense that must be kept at a minimum, and as an annoying disturbance to the company’s operations, there is a greater risk of managers not living up to the legal obligations of the employer.

Some employers seem to think of the obligations that come with parental leave as an inevitable part of business rather than as an annoying interruption of operations. Parental leave poses some challenges for their day-to-day operations to which solutions must be found. Trade unions can play an important role in this context; three interviewees are keenly aware of the role of trade unions in their organisations and of the attention unions pay to this area. These employers have experienced how breaching the Equal Treatment of Men and Women Act in connection with pregnancy and parental leave can lead to involvement by the trade unions, and ultimately result in inconvenient and costly arbitration proceedings or legal proceedings. Whether an employer breaches the rules or not is in all probability related to the presence of trade unions and their involvement, and the individual manager’s personal attitude toward gender equality and parental leave.

Trade unions played a much smaller role, or were completely absent, in the three other organisations that participated in the study. In these organisations,



compliance with the regulations is primarily determined by how senior management feel about equal treatment and parental leave, and how the HR department deals with these issues. When senior management prioritises gender equality and diversity, the HR department is more proactive with regard to approaching line managers and employees about these issues. The aim of the HR departments' efforts is to ensure that the individual manager understands both the employer's legal obligations and their own responsibility as a manager to retain and develop male and female employees who go on parental leave.

All enterprises in Denmark are required by law or collective agreement to belong to a scheme through which a certain percentage of their payroll costs for employees on parental leave are reimbursed. Despite this, our interviewees gave the clear impression that they believe that employers and some managers still see parental leave as a cost they want to keep at a minimum or completely avoid, depending on how strongly they feel about prioritising gender equality. The costs of (temporarily) replacing an employee that is not covered by the scheme include placing an ad for a maternity cover, training and production loss (Danish Confederation of Trade Unions 2010).<sup>50</sup> Some senior managers ascribe little importance to how their organisation treats employees who go on parental leave and do not think this is an area that requires them to be proactive. This affects the way in which these organisations' HR departments deal with gender and gender equality. Regardless of whether the schemes cover all of the costs an organisation incurs in relation to parental leave, these costs may affect the choices managers make if the individual department covers these costs from its own budget rather than from the organisation's overall budget.

# CHAPTER 7

## CONCLUSION AND RECOMMENDATIONS

Danish legislation protects parents against discrimination on the labour market in connection with pregnancy and parental leave. This protection is seen as a fundamental and important means to achieving real equality between men and women.

The division of parental leave is very skewed in that mothers on average take 271 days of parental leave, whereas fathers take 30 days. This skewness poses several challenges to gender equality, for example that women are much more likely than men to suffer negative consequences of becoming pregnant and going on parental leave. This is because their careers are affected by pregnancy and parental leave, for example, their career may slow down or they may fall behind salary-wise. In other words, gender inequality can be combatted by ensuring a (more) equal division of parental leave.

That discrimination in connection with pregnancy and parental leave is a real problem is seen in the annual report of the Board of Equal Treatment that states that “the majority of the cases brought before the Board concerned discrimination in connection with pregnancy and parental leave” (Board of Equal Treatment 2014, page 19).

Based on the conditions described here, this report shows how and to what extent parents and expecting parents experience discrimination on the labour market when they decide to have children and take parental leave. Moreover, the analyses shed light on some of the choices parents make when they have a child.

To gain detailed insight into the extent and nature of the problem, we have obtained a large amount of data on which we have based our analyses. We sent questionnaires to 1,589 representatively selected individuals who became parents in 2008 or later or who are expecting a child. This has enabled us to document how many individuals experience discrimination in connection with pregnancy or parental leave. In addition we interviewed 18 individuals about their experiences of being discriminated against during their pregnancy, during their absence from work due to parental leave, and when they returned to work

after their parental leave. Moreover, we spoke to HR staff from six large organisations to obtain an employer's perspective on how this kind of discrimination can happen, and what can be done in the future to prevent this.

## **7.1 RESULTS OF THE ANALYSES**

Mapping the extent of the experienced discrimination shows that 45 per cent of female respondents experience one or several types of discrimination in connection with pregnancy and parental leave. For men, this figure is 23 per cent. These figures show that this kind of discrimination is widespread and that more women than men are affected.

### **7.1.1 JOB SEARCH AND INTERVIEW**

Several of the interviewed employees report that they have experienced discrimination in connection with a job interview. For example, employers have asked them whether they are pregnant, and, if they already had one or more children, whether they are planning to have more children in the future. The applicants feel convinced that if they had responded affirmatively to these questions, they would not have been considered for the job. In line with this, the quantitative survey shows that applicants are asked to describe their plans to have a family at job interviews; one in six women who has attended a job interview reports having been asked questions about this. Moreover, almost one in five women had refrained from applying for a position while trying to become pregnant or when pregnant. Also men were asked to describe their plans to have children (12 per cent) and their plans to go on parental leave (six per cent).

That is, questions about pregnancy are asked even though the Equal Treatment of Men and Women Act requires employers to treat men and women equally, for example, in the recruitment process. This means that, when recruiting employees, the employer may not take circumstances related to gender into consideration, for example, information about pregnancy. According to legal practice, women do not have a duty to disclose that they are pregnant. Therefore, if an employer asks questions about pregnancy, this is considered a breach of the Equal Treatment of Men and Women Act. In addition to the questions in themselves being problematic, some jobseekers may be hesitant to actually seek a job while they are pregnant because of these questions.

All the HR staff we interviewed, who in this study represent the employers, report that they have no personal knowledge about work-related cases where pregnant applicants have been discriminated against in a job interview situation. However, they cannot rule out that some managers, due to their lack of understanding or awareness of an employer's obligation to treat men and

women as equals – or simply because in their view pregnancy and parental leave interferes with business – sometimes actively choose not to hire young women. And sometimes, due to cost-effectiveness demands, department directors actively choose not to hire young women. The employees suggested increasing managers' awareness about the regulations, and that costs in connection with absence due to pregnancy and parental leave are centralised.

### **7.1.2 WORKING CONDITIONS PRIOR TO PARENTAL LEAVE**

Several of the women interviewed choose to inform their employer of their pregnancy at an early stage. The primary reason for doing so is a wish to protect their unborn child by being moved from tasks that involve a health risk. Another reason is to give the employer more time to make plans for how to deal with their absence, for example, by delegating tasks to colleagues or hiring a maternity cover, thereby ensuring that their absence is as unobtrusive as possible for the employer and their colleagues. The employers react differently to news about pregnancy, and several of the women report that their managers have taken the news very badly. This tendency is also seen in the quantitative survey that shows that one in nine of the female respondents have experienced a negative reaction from their manager when they announce their pregnancy or their plans to take parental leave. One in 14 men experience the same reaction. The women interviewed are not met with any significant reactions from their colleagues, whereas the men report that their male colleagues do not understand why they have chosen to take parental leave for a longer period of time and make comments about it being a nice long holiday. In contrast, their female colleagues are positive.

In addition to the direct reactions expecting parents are met with at work when they announce that they are expecting, they also face practical changes to their everyday working lives. The survey shows that 18 per cent of female respondents and 7 per cent of male respondents experience less favourable working conditions. The interviews also revealed examples of such changes, and several of the interviewees tell that their tasks have been changed. In a few instances, this is due to health and safety reasons, for example, to protect the employee from carcinogenic substances and radiation from scanners, while in other instances the employer implements some changes in an attempt to pre-empt any problems that might arise due to a pregnant employee going on pregnancy-related sick leave. With regard to the latter, a few of the interviewed women had their areas of responsibility and tasks taken away from them even though they still had the full capacity to perform their job; this is in practice a de facto demotion.

The interviewees also describe how they have been met with more drastic, non-verbal reactions from their managers when they have announced that they are expecting. Several of them had the duration of their employment contract shortened so the expiration date coincided with the first day of their parental leave. And several of the female interviewees were presented with a severance agreement, or they were simply dismissed without any prior warnings or indication of what was about to happen. Also several of the male interviewees were dismissed just before they went on parental leave or during their leave.

Receiving negative news like this from an employer has negative consequences for the employee's parental leave; several interviewees describe how they felt that their time on parental leave was ruined because their focus was not on their child and family, but on finding a new job and worrying about their financial situation.

According to the interviewed HR employees, when employees experience discrimination in connection with pregnancy and parental leave, this is most likely due to managers not prioritising this issue. Lack of resources and insufficient knowledge about statutory requirements may also contribute to this.

Such situations where employees feel they are discriminated against could be prevented if the HR systems that the interviewed HR employees describe really worked as intended. The six organisations that participated in this study are larger in size than average and have the resources to implement the necessary measures and to hire professional, qualified HR managers and employees. In addition, the majority of top managers in these organisations prioritise gender equality, and they are aware of the link between gender equality and the protection of pregnant employees and male employees who plan to take parental leave.

### **7.1.3 INTERACTION DURING PARENTAL LEAVE**

How often the interviewed employees interact with their workplace during their parental leave varies greatly. Because of the negative reactions they have met from their managers and the less favourable working conditions they experienced during their pregnancy, some of the interviewees feel a sense of relief about being able to add some distance to their place of work and focus on the child they are expecting and their family. And others make a conscious effort to stay in touch with their workplace, in part so they are not forgotten and sidelined career-wise, and in part so they remain up-to-date with regard to relevant developments at work and can more easily return to work full speed after their leave. In this regard, the quantitative survey showed that one in five

of respondents feel that they were not adequately informed about important developments at work while they were on leave.

With regard to women, how the interviewees split the parental leave period with their partner reflects the overall trends in Denmark: women take significantly more parental leave than men. The interviewees explain that this is because the woman wants to stay at home, whereas the man is more focused on pursuing his career and therefore does not want to stay home. Several of the female interviewees also explain that financial considerations rather than personal wishes determined how they split the period of parental leave, and because their (male) partner earned more than they did, the woman took the greatest share of the parental leave period. The quantitative survey further supports this in that it shows that half of the parents who take shorter parental leave than they want say that this is because longer leave would hurt them financially. The fact that parents have to accept a compromise with regard to their wishes is also clear from the quantitative survey, which shows that more than one in five of the male respondents do not take as long a parental leave as they want. More than one in three of these men state that this is primarily because their partner wishes to take the remainder of the shared leave period. For the women, one in eight had hoped to take longer parental leave than they actually did.

#### **7.1.4 TASKS AND WORKING CONDITIONS AFTER PARENTAL LEAVE**

The quantitative survey includes questions about whether female respondents return to the same workplace after parental leave. One in seven do not. Furthermore, by far the majority of the individuals interviewed had a new job at the time of the interview. Several of them explain that they chose to move on after their parental leave because they felt they were treated poorly by their previous employer when they were pregnant.

Especially one of the employers interviewed talks about the challenges of retaining employees who go on parental leave. As a consequence of this, at the time of the interview, this particular employer was in the process of implementing a coaching programme for employees returning to work after a period of parental leave. Moreover, the length of the parental leave period is mentioned as challenging factor; an employee may be absent from the workplace for quite a long time during which the organisation may have changed. This may entail that it is not possible to offer the employee the same position when they return to work, but instead offer an alternative position in accordance with legislation for this area.

The quantitative survey also shows that a total of 12 per cent of women are given new tasks when they return to work after parental leave, even though the majority of these women did not want new tasks. Especially women experience less favourable working conditions when they return to work after parental leave: they are given less responsibility (11 per cent), are demoted (6 per cent) and have fewer shifts or working hours (3 per cent). In line with this, several of the interviewees report that they feel they are demoted when they return to work after parental leave. They explain that they feel this way because a maternity cover has been employed in a permanent position and has taken over their tasks and responsibilities. Several of the interviewees reluctantly accept their new and less favourable working conditions because they are worried about escalating a conflict that may lead to their dismissal. And some of them choose to confront the issue, resulting in a severance agreement.

If an employee experiences discrimination at work, the natural thing to do is approach one's trade union representative or trade union, providing the employee is a member. Several of the interviewees do this, however, they do not all receive the same level of support and guidance even though legislation is clear in this area. Some of the interviewees were very unhappy with the help they were offered, whereas others felt the union helped them in their dialogue with their employer.

Finally, the analysis shows that for some of the women interviewed, the discrimination they have experienced has had severe negative consequences for their professional careers. At the time of the interview, several of these women are in limbo professionally, and they are struggling to (re)establish themselves on the labour market. They are stuck in temporary positions that are outside their field, and as a consequence of this, their training and professional qualifications lose value, making it increasingly difficult for them to return to the career they want for themselves. There is even an example of an individual who has reached the conclusion that they will never work again.

A common theme in the interviewees' stories is that the experienced discrimination has been frustrating and tough at a personal level and has led to major changes in their professional lives.

## **7.2 RECOMMENDATIONS**

The knowledge that has been generated based on the data base and the subsequent empirical analyses show that more women than men experience differential treatment at work in connection with having a child, and that many individuals experience discrimination. As such there is good reason to initiate

concrete initiatives and changes that promote gender equality. The Danish Institute for Human Rights recommends five actions that will contribute to this.

### **7.2.1 ACTION PLAN FOR INFORMATION ON RIGHTS AND OBLIGATIONS**

The quantitative survey shows that nearly one in two women and one in four men experience one or more types of discrimination on the labour market in connection with pregnancy and parental leave. The Danish Institute for Human Rights suggests that employer organisations, employee organisations and the government work together to reduce the number of individuals who experience discrimination.

1. The Danish Institute for Human Rights recommends that the social partners and the Danish government produce an action plan for an information campaign on the rights and duties in connection with pregnancy and parental leave, to reduce the number of employees that experience discrimination.

The aim of this plan is to raise awareness among employees, union representatives and employers with regard to the regulations that protect employees in connection with pregnancy and parental leave. As such, efforts should not only be targeted at employees and union representatives, but also at employers, who are responsible for ensuring compliance with the legislation.

### **7.2.2 MORE EQUAL DISTRIBUTION OF PARENTAL LEAVE**

The report shows that more women than men experience discrimination in connection with becoming a parent. This difference is related to the fact that women take a much greater share of parental leave than men. One way in which this difference, and thereby also an employer's incentive to treat men and women differently, can be reduced is that men take a greater share of the parental leave. The quantitative survey shows that some men do in fact want to take more parental leave. In the survey, one in five men responded that they had taken less leave than they wanted.

2. The Danish Institute for Human Rights recommends that the Danish government and the social partners promote a more equal distribution of parental leave between men and women.

### **7.2.3 FORMALISED TALK BEFORE PARENTAL LEAVE**

The report documents that employees experience that responsibilities are taken away from them in connection with pregnancy and parental leave. For example,



almost one in five women experience that her working conditions are made less favourable during her pregnancy. In line with this, several of the interviewees experience that responsibilities are taken away from them, or they are given new tasks at a lower level that they do not want when they return to work after parental leave. This happens even though legislation in the area stipulates that, when returning to work after parental leave, parents have a right to return to the same job or a similar job at the same level with similar conditions. Many misunderstandings and disagreements about an employee's working conditions – before and after parental leave – can be prevented if the employee and employer have a formalised talk where they agree on these conditions. It is important that this agreement has a degree of flexibility so that it can be adapted to any organisational changes in the workplace during the parental leave period. This talk could follow the same structure and have the same aim as the staff development interviews that are already in place in the organisation.

3. The Danish Institute for Human Rights recommends that an employee and their manager have a 'parental leave talk' before the parental leave starts. At this talk, a post-leave career plan for the employee should be made.

In connection with this talk, the employee should be given a designated contact person in the organisation, whom the employee can go to if the plan is not met. The Danish Institute for Human Rights also finds that it would be a good idea if the employee sends an email to their manager summing up the main points after the talk.

#### **7.2.4 SKILLS-UPGRADING OF CASE WORKERS AND TRADE UNION REPRESENTATIVES**

The report's analyses show that there is a difference between the support and guidance that employees who are members of a trade union receive when they ask their respective trade unions and union representatives for advice. All members should be met with uniform levels of qualified support and guidance.

4. The Danish Institute for Human Rights recommends that employee organisations ensure their case officers and union representatives are qualified and competent in giving advice and personal support when they are met with enquiries about discrimination on the labour market in connection with pregnancy and employees taking parental leave.

### 7.2.5 CLARIFICATION OF LEGISLATION

The Equal Treatment of Men and Women Act requires employers to treat men and women equally, for example, in the recruitment process. This means that, when recruiting employees, the employer may not take circumstances related to gender into consideration, for example, information about pregnancy, and it is considered a breach of the law if an employer asks questions about pregnancy. The quantitative survey shows that one in six women and one in eight men who have attended a job interview have experienced being asked whether they are pregnant or plan to have a child.

5. The Danish Institute for Human Rights recommends that the Ministry of Employment specifies in the Act on Equal Treatment of Men and Women as regards Access to Employment and Maternity Leave, etc. that, during a job interview, an employer may not ask questions about pregnancy and parental leave.

Furthermore, the Ministry of Employment should impress upon employers that it is a breach of the law to practise any kind of differential treatment of an employee who is receiving fertility treatment, is pregnant or who is planning to take parental leave.

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# END NOTES

<sup>1</sup> A more equal distribution of parental leave between men and women would have some positive consequences. Even though the report does not cover all of these aspects, as an example we can mention here that if fathers increase their parental leave, children will to a greater degree benefit from having two equal and equally involved parents. Similarly, when fathers take on parenting responsibilities, this challenges the gender stereotypes in families. For example, in situations where a couple breaks up, a more equal distribution of parenting responsibilities will strengthen the father's position with regard to any conflicts about parenting time and custody (Krogh 2014). Finally, the imbalance in parenting responsibilities also affects how men and women are treated on the labour market, just as the absence of equal pay for men and women can also (in part) be traced back to how men and women choose to share their right to parental leave.

<sup>2</sup> Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast).

<sup>3</sup> Directive 2006/54/EC, Article 15.

<sup>4</sup> Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth special directive pursuant to Article 16 (1) of Directive 89/391/EEC).

<sup>5</sup> Council Directive 2010/18/EU of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BusinessEurope, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC.

<sup>6</sup> Consolidation Act no. 734 of 28 June 2006 on Equal Treatment of Men and Women as regards Access to Employment and Maternity Leave, etc. In the following referred to as the Equal Treatment of Men and Women Act.

<sup>7</sup> Consolidation Act no. 899 of 5 September 2008 on Equal Pay for Men and Women (subsequently amended).

<sup>8</sup> Consolidation Act no. 571 of 29 April 2015 on Entitlement to Leave and Benefits in the Event of Childbirth (subsequently amended).

<sup>9</sup> Section 2 of the Equal Treatment of Men and Women Act.

- <sup>10</sup> Court of Justice of the European Union case C-109/00, Board of Equal Treatment 2011.
- <sup>11</sup> Section 4 of the Equal Treatment of Men and Women Act.
- <sup>12</sup> Section 8 of the Equal Treatment of Men and Women Act.
- <sup>13</sup> Section 9 of the Equal Treatment of Men and Women Act.
- <sup>14</sup> Section 16(4) of the Equal Treatment of Men and Women Act.
- <sup>15</sup> Read more about the protection of fathers in the Board of Equal Treatment 2015b.
- <sup>16</sup> Section 16(4) of the Equal Treatment of Men and Women Act.
- <sup>17</sup> Section 1(2) of the Equal Pay to Women and Men Act.
- <sup>18</sup> Section 6(1) of the Act on Entitlement to Leave and Benefits in the Event of Childbirth.
- <sup>19</sup> Section 6(2), no. 1 of the Act on Entitlement to Leave and Benefits in the Event of Childbirth.
- <sup>20</sup> Section 6(2), no. 2 of the Act on Entitlement to Leave and Benefits in the Event of Childbirth.
- <sup>21</sup> Consolidation Act n. 559 of 17 June 2004 on the Performance of Work; Danish Working Environment Authority guidance on health and safety at work for pregnant workers and workers who are breastfeeding.
- <sup>22</sup> Section 7 of the Act on Entitlement to Leave and Benefits in the Event of Childbirth.
- <sup>23</sup> Section 9 of the Act on Entitlement to Leave and Benefits in the Event of Childbirth.
- <sup>24</sup> Sections 8 and 9 of the Act on Entitlement to Leave and Benefits in the Event of Childbirth.
- <sup>25</sup> Act no. 652 of 12 June 2013 on Amendments to the Act on Artificial Insemination in Connection with Treatment, Diagnosis and Research, etc., the Danish Tissue Act, the Danish Children Act, the Child support Act, and the Administration of Justice Act.
- <sup>26</sup> Section 15 of the Act on Entitlement to Leave and Benefits in the Event of Childbirth.
- <sup>27</sup> Section 15(2) of the Act on Entitlement to Leave and Benefits in the Event of Childbirth.
- <sup>28</sup> Section 15(3) of the Act on Entitlement to Leave and Benefits in the Event of Childbirth.
- <sup>29</sup> Section 15(4) of the Act on Entitlement to Leave and Benefits in the Event of Childbirth.



<sup>30</sup> Section 16 of the Act on Entitlement to Leave and Benefits in the Event of Childbirth.

<sup>31</sup> When considering the results of the quantitative survey (and the figures), we see in several cases that the total number of respondents is stated as being 1,589; however, according to the gender distribution, there are 795 women and 795 men, which adds up to a total of 1,590. This difference of one respondent is caused by the weighting used in the survey, in order to achieve an equal gender distribution. That is, the numbers have been rounded.

<sup>32</sup> Since this survey is the first of its kind in Denmark, and we therefore have no knowledge of the extent to which this type of discrimination has been experienced, the analysis has a more descriptive approach rather than an explanatory one. This is because “... *the more inadequately researched a phenomenon is, the greater the need for preliminary empirical surveys of the phenomenon[...]*” (Hansen & Andersen 2000, page 32).

<sup>33</sup> These numbers can be found in the section “Overall extent of experienced discrimination”, which can be found at the end of Chapter 4: Survey of the extent of experienced discrimination.

<sup>34</sup> The following brief presentation of surveys is not comprehensive as it only presents the main points relevant to this report. Furthermore, we cannot rule out that there may be other surveys with which we are not familiar.

<sup>35</sup> The survey does not explain why female members of DJØF experience more negative consequences when they are employed in the private sector or why the opposite is true for men who experience more negative consequences in connection with employment in the public sector.

<sup>36</sup> Among those surveyed, 41 per cent of women and 35 per cent of men believe that there are no barriers.

<sup>37</sup> Since respondents can select multiple answers, the 18 per cent was arrived at because 81 per cent responded “No” and 1 per cent responded “Don’t know/Don’t remember”.

<sup>38</sup> These four questions about less favourable conditions were asked in extension of the overall question “Have you experienced the following because you were pregnant/expecting or because you were planning to take parental leave?” and they were 1) “Unnecessarily having tasks taken away that you wished to keep?”; 2) “Not having a temporary position extended even though you wished to stay?”; 3) “Receiving fewer shifts, hours or a lesser position than you wanted to?”; and 4) “Being fired?”. In the figure, the answers “Yes, I am sure” and “Yes, I suspect this” have been combined.

<sup>39</sup> For more information read the Danish Institute for Human Rights' analysis of men and parental leave (Krogh 2014) (in Danish only).

<sup>40</sup> On average, women take 271 days of parental leave while men take 30 days of leave, see the introduction and Statistics Denmark (2015a).

<sup>41</sup> These three questions were posed as a single question and the respondent was able to select multiple answers. The question was: "Have you experienced any of the following after you returned to work from parental leave? Being demoted? Being given less responsibility? Being given fewer shifts or hours?" The answers "Yes, I'm sure" and "Yes, I believe/suspect this to be the case" have been combined.

<sup>42</sup> See more about changed contracts in connection with an employer who has learnt that an employee is pregnant in the section "Changed contract and dismissal: 'You cost too much for them because you're pregnant.'"

<sup>43</sup> The Danish Institute for Human Rights' report on experiences from equal pay cases (*in Danish*, Warming & Precht 2014) also emphasises the concerns especially women have about basing arguments on rights linked to one's gender. In the 2014 report, words such as "difficult and awkward" and "strange" are used to describe how the women feel when they are forced to "play the equal treatment card" due to unequal pay (page 64).

<sup>44</sup> For more on this situation and the woman's relationship with her team leader, see the section "Involving the trade union: 'I was a little bit unlucky about who I got hold of.'"

<sup>45</sup> The woman's trade union got involved while all this was going on and helped her increase her period of notice from four months to 11 months, see the section below about involving the trade union.

<sup>46</sup> Women are also hesitant to instigate legal proceedings against an employer. They are in part worried that, should they continue to work for the same employer, they will be seen as being disloyal, and in part worried that it might harm their chances of finding another job within the same sector (Warming & Precht 2014).

<sup>47</sup> It should be noted that on average women earn less than men, that is, there is a link between gender and salary (e.g. Warming and Precht 2014).

<sup>48</sup> Section 1(2) of the Equal Treatment of Men and Women Act.

<sup>49</sup> Section 8a of the Equal Treatment of Men and Women Act.

<sup>50</sup> The report, which deals with the permanent replacement of an employee and thus cannot be directly transferred, specifies that "[i]t costs DKK 400-500,000 to replace a university-trained employee and DKK 200-300,000 to replace a non-

university-trained employee [...]" (The Danish Confederation of Trade Unions 2010, page 60). Moreover, the report also specifies that it costs "approximately DKK 66,000 [...] to train a new semi-skilled worker" (The Danish Confederation of Trade Unions 2010, page 60), and that "the costs for hiring and training a cargo worker [...] are approx. DKK 77,000." (The Danish Confederation of Trade Unions 2010, page 60).

Nearly one in two women, and one in four men, experience one or more types of discrimination on the labour market in connection with pregnancy and parental leave.

For example, their tasks and areas of responsibility are taken away from them, they are asked questions about pregnancy at job interviews, the duration of their employment contract is changed and they are subject to negative reactions from their manager because of their plans to go on parental leave.

This is despite the fact that Danish legislation protects parents against discrimination in the workplace in connection with pregnancy and parental leave.

This report shows how and to what extent parents and expecting parents experience discrimination in the workplace when they decide to have children and take parental leave.

The analyses in the report are based on a quantitative survey of the experiences of 1,589 individuals, on interviews with 18 parents or expecting parents, and on interviews with six employer representatives from large organisations.