



Do you employ staff?

## Fertility and the Workplace

Following on from National Fertility Week (28<sup>th</sup> October – 3<sup>rd</sup> November 2019), and the detailed coverage on BBC Radio 2 and BBC Radio 5 Live, we felt it would be a good idea to publish a newsletter on the subject of fertility in the workplace.

### What is Infertility?

According to the World Health Organisation (WHO) and the National Institute for Health and Care Excellence (NICE), infertility is a disease of the reproductive system that is defined by the failure to achieve pregnancy after trying to conceive for a period of 12 months or more. There are two types of infertility, primary infertility or secondary infertility. Primary infertility is when a couple are unable to get pregnant or a woman is unable to carry a pregnancy to a live birth. Secondary infertility is where a couple have already successfully had one live birth, but after this, they are unable to conceive again or carry the second pregnancy to a live birth.

Both men and women can suffer from infertility, and all aspects of infertility are considered to be classed as a medical issue, caused by a specific medical condition or classed as “Unexplained”. Unexplained infertility which is where there is no identifiable cause for the infertility, but the couple simply cannot conceive or the woman cannot carry a pregnancy to term.

It is a common misconception that infertility affects women more than men, but statistics show that around 50% of infertile couples receive this diagnosis due to male factors. Society is typically ignorant to the emotional impact of infertility, with many people demonstrating ignorance to the fact that it is a medical condition, but research has shown that the impact and trauma experienced by those diagnosed with infertility is of a similar level to cancer patients.

## How is it Treated?

Treatment varies but it will start with a series of tests. For women, this involves multiple blood tests, ultrasounds, a special type of x-ray called a Hysterosalpingography (HSG), Laparoscopies and sometimes even MRI's. For men the fertility investigations are simpler.

Once the investigations are complete, which can take anywhere between a few months to over a year, the appropriate treatment can begin. This could be anything from a course of tablets (which is then monitored via more blood tests and ultrasounds), to minor surgical procedures to remove cysts, growths or blockages, or Assisted Conception via Intrauterine Insemination (IUI) commonly known as "artificial insemination", or In Vitro Fertilisation (IVF).

The length of time needed for treatment depends entirely upon the treatment needed, but considering fertility investigations don't usually start until a couple have been trying to conceive for 12 months or more, investigations can commonly take 6 – 12 months, and Assisted Conception is rarely considered before 24 months of trying to conceive, it is very normal for people to be treated for infertility for a number of years. The effect of treatment cannot be disregarded; the medication can cause multiple physical side effects, emotions like anxiety, stress and depression are incredibly common, and people often describe being treated for infertility as one of the worst times in their lives. Unfortunately, treatment is not guaranteed to be successful with many couples undergoing years of treatment to finally come to the conclusion that they will not have a child via medical means.

## Fertility and the Workplace

In consideration of the above, it is highly likely that an employee's infertility will have an effect on the workplace, even if the employee tries very hard to prevent this. Research recently published in the Journal of Psychosomatic Obstetrics and Gynaecology, from a study on 563 employees in the UK, showed the following:

- Employees averaged 9 days absence from work for each "treatment cycle", although 50% of those surveyed took more than this. The employees who reported a higher level of absence stated that this was due to the emotional impact of their treatment.
- Only 23% reported that their workplace has a specific policy clarifying how fertility issues should be managed. The policies varied with some disregarding the medical need behind fertility treatment and instead choosing to view it as an optional / "elective" procedure for which the employee had no right to time off, other policies acknowledged the medical need, but support was offered on a vague / discretionary basis. Employees who reported their employer as having no policy expressed more levels of distress throughout the survey.
- 72% of employees surveyed disclosed their situation to their employer. Of those 72%: 42% claimed to receive "a great deal of support", 48% received "a bit of support", and 10% received "no support". Again, where the employees received no support, higher levels of distress were recorded. People who didn't report their circumstances to their employer stated fear of career repercussions, a lack of understanding, stigma and gossip as their reasons.
- 58% of respondents said that work affected their treatment, 87% said the emotional impact meant their work was affected, and 51% of respondents were concerned their fertility treatment would impact their larger career.

An increased level of absence to attend medical appointments is inevitable for employees who are undergoing fertility treatment. Considering many patients report feelings similar to grief whilst undergoing fertility treatment, as well as physical side effects from their treatment commonly including emotional issues, nausea, fatigue and pain, it is also possible that performance may be affected. It's worth noting that 19% of those surveyed had to reduce their hours or even leave their employment due to their fertility treatment and how it interacted with their career. Whilst it is a personal issue that is entirely separate to the employee's job role, it is certainly something that affects an employee's ability to fulfil their responsibilities, sometimes for a significant amount of time.

## How to Support Employees

So, how can you support employees going through these issues? The first step is to ensure they feel comfortable enough to discuss their personal circumstances. Utilise your 'Open Door Policy' (or similar) and make your employees aware that this policy can be used for personal issues as well as workplace issues. The next step is to ensure that you and your managers know how to respond and deal with the information that has been provided. Education is key. There are laws in place that dictate how employees are managed during pregnancy, maternity and paternity situations, but there are currently no laws that state how an employee should be treated whilst being treated for infertility (although it should be noted that an employee is classed as "pregnant" under the Equality Act 2010 from the date of embryo transfer, even though a pregnancy test cannot be taken until two weeks later). An employee who is receiving fertility treatment does not have any specified employee rights which means that how they are managed is at your discretion. However, without a clear policy situations can become more difficult to manage and could possibly lead to employees being treated differently or even unfairly.

We would recommend that employers have a policy that clearly states how employees suffering from infertility will be managed. Things to consider are:

- How absence for treatment will be managed. Will it be managed as "absence" or "medical appointments" / "fertility leave"?
- Are you willing to permit employees a certain amount of leave per treatment cycle, and will this leave be paid or unpaid? (Surveys show employers commonly offer employees between 2 and 9 days per cycle, which can be paid or unpaid depending upon policy).
- How health and safety will be maintained. Fertility treatment commonly involves employees having to inject themselves with medication, consideration may need to be given to storage of said medication, and hygienic environments for people to use whilst administering the medication.
- How flexible you are willing to be. Will employees be permitted to work from home, if possible, when recovering from procedures? Can employees alter start and finish times to accommodate appointments? Are there options for lighter duties for employees in physical roles, as physical exertion can affect fertility treatment?
- What support will you offer the "partner", the employee who may not be receiving the treatment themselves, but who is in a relationship with the person who is? When answering this question, consideration needs to be given to the fact that there are certain appointments where both patient and partner need to be present to make decisions and give consent about future treatment.
- How will you manage and support the emotional aspect of infertility?

- How will you manage the worst-case scenarios? When discussing fertility, we do need to consider how you may choose to manage employees who suffer miscarriages. It may be more appropriate to manage this as a loss rather than an illness, and to give the employee a short period of compassionate leave as you would normally do after an employee suffers a bereavement.

There are no right or wrong answers because, as previously stated, there is no official guidance or legal rulings on how employees should be managed whilst they are undergoing fertility treatment. However, as an employer you are expected to be reasonable and supportive of employees, with consideration to your available resources and the needs of the business.

To protect the business you can include rules in your policy that specify employees must provide evidence of all appointments and treatment, and you can even specify that employees must provide evidence to support their need for any compassionate leave if you have a fear that your flexibility may be abused. You are also able to put a limit on the amount of treatment cycles you will support and offer flexibility for, with many UK employers choosing a maximum of three cycles as this is the amount recommended for patients by NICE.

Additional information / other useful resources can be found at:

- [fertilitynetworkuk.org](http://fertilitynetworkuk.org)
- [bbc.co.uk/fertility](http://bbc.co.uk/fertility) (including “podcast” catch ups from the BBC Radio 2 and BBC Radio 5Live coverage of National Fertility Week 2019)
- [britishfertilitysociety.org.uk](http://britishfertilitysociety.org.uk)

### How Can We Help?

If you would like some help introducing a policy on responding to the issues in this newsletter, or if you have any questions based upon the information in this newsletter, please don't hesitate to contact us via [hradvice@hasslefreehr.co.uk](mailto:hradvice@hasslefreehr.co.uk)