

# Employers aren't obliged to carry on childcare vouchers under a salary sacrifice during maternity leave

written by BDBF

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# Employers aren't obliged to carry on childcare vouchers under a salary sacrifice during maternity leave

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An employer which offered childcare vouchers by way of salary sacrifice was not obliged to continue to pay them to an employee on maternity leave.

Ms Donaldson was employed by Peninsula Business Services Ltd. The salary sacrifice scheme it operated, under which childcare vouchers were given, stated that the vouchers would not be provided and salary would return to normal when an employee went on maternity leave. Ms Donaldson claimed that the scheme was discriminatory on grounds of pregnancy and sex and accordingly brought a claim.

The Employment Appeal Tribunal dismissed Ms Donaldson's claim. As the childcare vouchers were given as part of a salary sacrifice scheme, they should be considered to be remuneration. Statute provides that all contractual terms and conditions need to continue during maternity leave, except those relating to remuneration. Therefore, there was no obligation to continue providing vouchers during maternity leave.

This case does not affect cases where childcare vouchers are given on top of salary; the EAT was clear that, in such circumstances, the vouchers could not be considered to be remuneration and must therefore be maintained.

*Peninsula Business Services Ltd v Donaldson [2016] UKEAT/0249/15*

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