

Employer's duty to offer a suitable alternative vacancy to a woman on maternity leave arises when it becomes aware of potential redundancy

```
[et_pb_section admin_label="Section" global_module="136"
fullwidth="on" specialty="off" transparent_background="off"
background_color="#ffffff" allow_player_pause="off"
inner_shadow="off" parallax="off" parallax_method="off"
padding_mobile="off" make_fullwidth="off"
use_custom_width="off" width_unit="on" make_equal="off"
use_custom_gutter="off"] [et_pb_fullwidth_code
global_parent="136" admin_label="Post
Header"] [Page_Header_Start] Employment Law News
[Page_Header_End] [/et_pb_fullwidth_code] [/et_pb_section] [et_pb
_section admin_label="section"] [et_pb_row
admin_label="row"] [et_pb_column type="3_4"] [et_pb_text
admin_label="Text" background_layout="light"
text_orientation="left" use_border_color="off"
border_color="#ffffff" border_style="solid"]
```

Employer's duty to offer a suitable alternative vacancy to a woman on maternity leave arises when it becomes aware

of potential redundancy

[post_details]

[Social-Share]

[post_tags]

The EAT has held that an employer's duty under the Maternity Leave Regulations to offer a woman on maternity leave a suitable alternative vacancy arises when the employer becomes aware that her role is redundant or potentially redundant. The failure to make such an offer renders the woman's dismissal automatically unfair.

Mrs Wainwright had worked for Sefton Borough Council as Head of Overview and Scrutiny for over 12 years. The council had been planning redundancies since 2010 and executed that plan in 2012. As part of the restructure, in June 2012, the council proposed to combine Mrs Wainwright's role with Head of Member Services, held by Mr Pierce, to create a single role of Democratic Services Manager. Mrs Wainwright went on maternity leave in July 2012. On 26 July 2012, Mrs Wainwright's and Mr Pierce's positions were formally placed at risk of redundancy. In December 2012 the council invited Mrs Wainwright and Mr Pierce to interview for the new role, following which it was offered to Mr Pierce. Mrs Wainwright was put on the redeployment register; Mrs Wainwright was given three months' notice in January 2013 of her dismissal for redundancy.

Mrs Wainwright brought claims for breach of the Maternity Leave Regulations and direct discrimination. In response, the council argued that its duty to offer an alternative role only arose once the reorganisation was completed, i.e. when Mr Pierce was chosen for the combined role in December 2012. It also submitted that the new position created was not a vacancy in the usual sense, in that it was only open to two

candidates, so Mrs Wainwright was only entitled to advantageous treatment once she was in the redeployment pool.

The EAT found that it would undermine the purpose of the legislation to say that the employer is only obliged to offer an alternative vacancy once a restructure is complete; the obligation to offer alternative employment arose on 26 July 2012 when Mrs Wainwright's role was formally put at risk of redundancy. Further, it was wrong to say that the new role is not a vacancy simply because it was only available to a limited pool. In any event, it was open to the council to offer a suitable vacancy other than that of Democratic Services Manager. The EAT held that the council had been wrong to ask Mrs Wainwright to take part in an interview process at all; the right under the regulations is to be offered a vacancy regardless of whether the woman is the best person for the job.

Sefton Borough Council v Wainwright UKEAT/0168/14

```
[/et_pb_text][et_pb_column
type="1_4"][et_pb_sidebar
admin_label="Sidebar"
orientation="right" area="sidebar-1" background_layout="light"
remove_border="off"]
[/et_pb_sidebar][et_pb_row][et_pb_section]
```