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PathFinders



Public Opinion Survey Summary Report

What do people in Hong Kong think about
migrant domestic worker pregnancy?

Unveiling the Dilemma, Challenges and Need for Solutions for Employers and Workers

December 2020

About PathFinders

PathFinders believes all children deserve a fair start in life.



PathFinders ensures the most vulnerable and unsupported children in Hong Kong are protected and respected, and their Migrant Domestic Worker (MDW) mothers are empowered to find a path to a brighter future.

Since 2008, PathFinders has directly served over 7,600 of Hong Kong's most vulnerable babies, children and their migrant mothers. During 2019, PathFinders cared for 925 new beneficiaries, provided 700 healthcare interventions, helped 91 babies acquire birth certificates and passports, handled 142 legal matters, held 91 education classes and assisted 64 families to return to the mother's home country.

For more information visit www.pathfinders.org.hk



About the survey

From May to September 2020, PathFinders conducted an online public opinion survey. The two primary goals of the survey were to:

- Obtain a snapshot of the public's perception of key issues surrounding a MDW pregnancy
- Develop feasible solutions to support both MDWs and their employers when a MDW is pregnant

341 people participated in the survey, which consisted of 7 questions in English and Chinese and captured the public's views towards:

- Acceptance of a MDW pregnancy
- MDW freedom of choice when managing her pregnancy
- 'Ideal' length of MDW maternity leave
- Living arrangements during a MDW's maternity leave
- Solutions required to support a MDW pregnancy

Summary

All working women in Hong Kong are entitled, without discrimination, to maternity leave. However, over the past 12 years and despite legal protection, PathFinders has all too often witnessed pregnant MDWs being illegally terminated from their jobs or pressured to resign, because the worker and employer simply did not know what else to do. This has resulted in many migrant mothers and children becoming unsupported and extremely vulnerable, and in need of PathFinders' assistance.

To prevent this crisis from perpetuating in our society, PathFinders conducted a public opinion survey to better understand the perception of the general public towards a MDW pregnancy and the key issues surrounding it.

Our key findings are:

Most respondents thought MDWs should receive equal maternity benefits: 73.8% of respondents surveyed said pregnant MDWs should have equal rights to maternity leave, like all working women in Hong Kong.

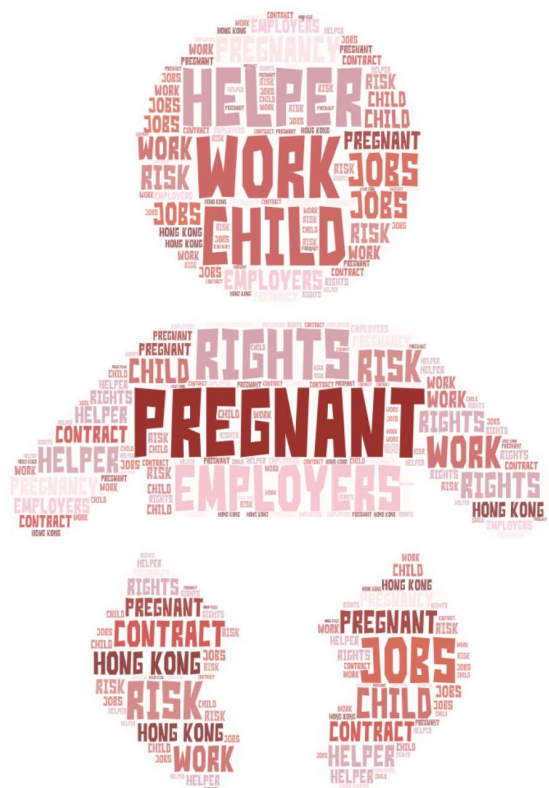
Most respondents considered a MDW pregnancy unacceptable: 64.8% of the respondents felt it was unacceptable for a MDW to get pregnant during her employment contract. Half of the respondents (50.4%) reported it was because of the inconvenience it would cause the employer and their household.

The majority of the respondents thought a MDW should not live with her employer when on maternity leave: 74.4% of respondents disagreed with a MDW living with their employer during her maternity leave, with 43.4% stating maternity leave should be taken in the workers' home country.

Most respondents liked the proposed solution of a temporary MDW to cover their worker's maternity leave: When faced with a MDW pregnancy, most respondents indicated they would first consider exploring the possibility of hiring a temporary MDW to cover the job duties of their MDW while on maternity leave. However, this potential solution is not currently available and would require changes to the existing MDW visa policy and contractual terms before it could become a reality.

These findings further confirm the long-standing dilemma and complex challenges many employers experience when faced with a MDW pregnancy. They also highlight the employers' need for viable solutions, as well as an increased need for public education on MDW maternity rights and protection.

With the increase in maternity leave from 10 to 14 weeks on 11 December 2020, PathFinders is deeply concerned employers will face a greater financial burden and increased stress in finding temporary support when their MDW takes maternity leave. PathFinders fears that unless employers are adequately supported with practical solutions, more expectant migrant mothers are at risk of being illegally dismissed and becoming immediately homeless, resulting in their children continuing to be some of the most vulnerable and unsupported in Hong Kong.



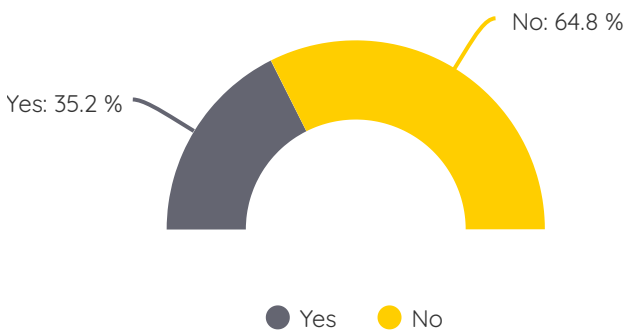
Survey Findings



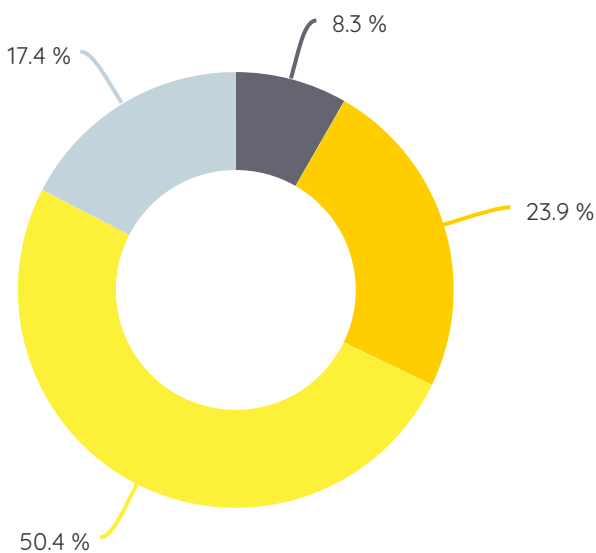
We tried to avoid MDWs taking part in this survey, so we published our survey on the PathFinders' main Facebook page, instead of the MDW-facing page. We also stated this survey was not targeted at MDWs.

Acceptance of a MDW Pregnancy

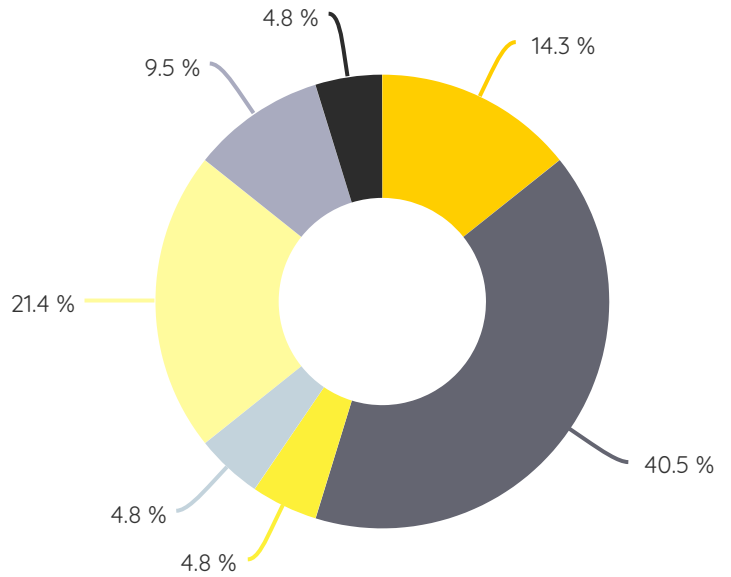
35.2% of respondents considered it acceptable for a MDW to get pregnant during her contract, while 64.8% felt a MDW pregnancy was unacceptable. [n=341]



Among respondents who believed it was unacceptable, half (50.4%) reported it was because of the inconvenience it would cause the employer and their household. One-fourth (23.9%) of respondents stated it was “not right” for a MDW to get pregnant during her contract because they were “supposed to be here to work”. 8.3% of respondents believed a MDW pregnancy was against the law and a breach of the employment contract.



- It's against the law, and a breach to the employment contract
- It's not right. They are here to work
- It's inconvenient for the employers and their household.
- Other reasons



- Concern for the child
- Negative consequences for MDWs
- Abuse of social welfare
- Away from the husband
- Inconvenient for both employer and MDW
- Lack of government support
- MDWs fail to make decisions carefully

The remaining 17.4% of the respondents believed a MDW should not get pregnant during her contract due to a variety of other reasons, including:

40.5% believed a MDW pregnancy would result in negative consequences for the worker themselves.

21.4% considered it would be inconvenient for both the pregnant MDW and the employer's household.

14.3% were concerned about the wellbeing of the MDW's child.

9.5% believed the MDW would be unable to receive sufficient support from the HKSAR government.

The remainder believed MDWs were unable to make careful decisions, were away from their husband or the baby's father, and were potential abusers of social welfare.

Hear what some respondents thought...



“As an employer, I feel guilty to make a pregnant lady do housework for me but this is what she is hired for.”

~ Survey Respondent

“Increased risk to workers. The work environment may not be suitable for pregnant women also.”

~ Survey Respondent

“If they want to start a family they should do it in the Philippines so their child can have a safety net.”

~ Survey Respondent

“Their nature of work requires them a high degree of physical activities, if they are pregnant, they may not be able to do some of the work that is required, not to mention if they feel sick because of pregnancy they may not be able to deliver work...”

~ Survey Respondent

“It’s probably inconvenient more so for the helper, and could be stressful / dangerous too when carrying out chores.”

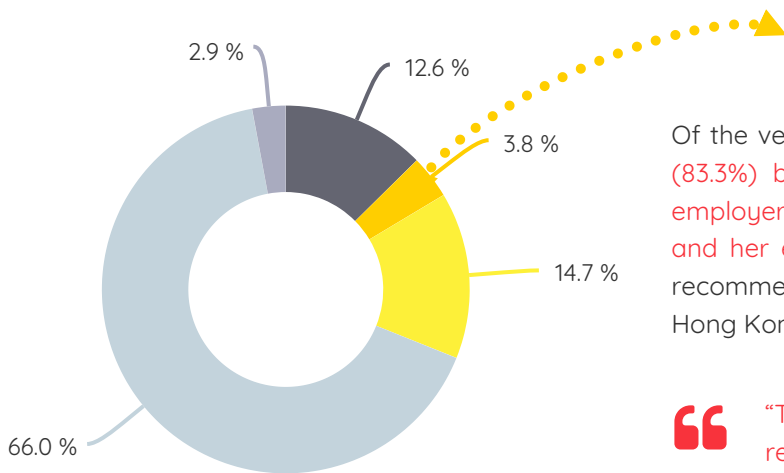
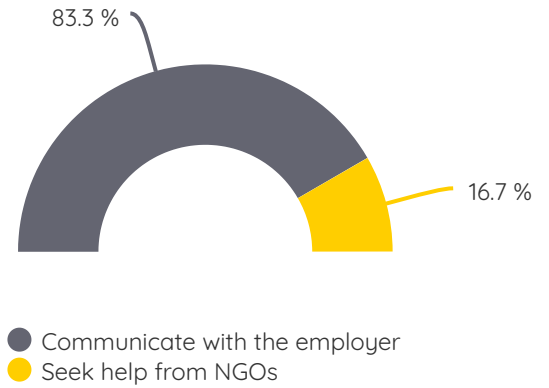
~ Survey Respondent

“It may not be the best for the development of their children.”

~ Survey Respondent

MDW Freedom of Choice When Managing Her Pregnancy

Two-thirds (66.0%) of the respondents thought a MDW should have the right to choose what she would want to do for herself and her baby, as it was ultimately her life and that of her unborn baby. 14.7% felt the MDW should resign, while 12.6% felt she should either return or be deported to her home country due to her pregnancy. Very few respondents believed she should consider terminating her pregnancy (2.9%). [n=341]

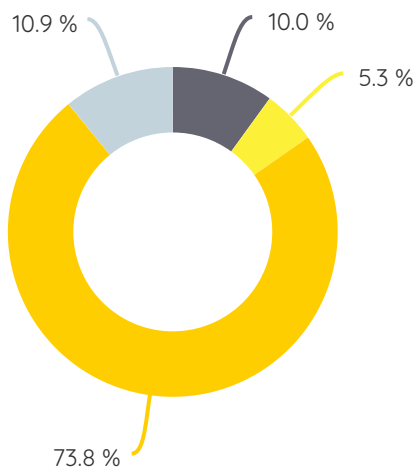


- She should be sent back to her home country
- Other options
- She should resign so her employer can hire a new worker
- She should decide what she wants to do
- She should consider terminating her pregnancy

Of the very few (3.8%) who responded “other”, the majority (83.3%) believed the MDW should communicate with her employer to come up with feasible solutions for both herself and her employer. The remainder (16.7%) said they would recommend the MDW seek help from NGOs or charities in Hong Kong.

- “The employer should discuss with the helper regarding the case and should find a win-win solution for both sides.”
- “Seek help from available service-providers such as PathFinders.”
- “We should talk and come up with a solution together.”

‘Ideal’ Length of MDW Maternity Leave



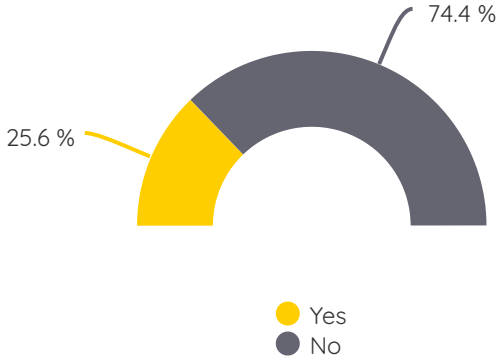
- None
- Less than 10 weeks
- 10 weeks
- More than 10 weeks

The majority (73.8%) of the respondents believed a pregnant MDW should receive equal maternity leave duration, like all working women in Hong Kong. 10.9% proposed a MDW should be given more than the statutory allowance, enabling her to spend more time with her baby, especially given she will not get to see them often once she returns to Hong Kong to work. 10.0% believed a pregnant MDW should not get any maternity leave, as they were in Hong Kong to work. Only 5.3% said a pregnant MDW should have less than the statutory maternity leave, predominantly as they expected a MDW to be back at work as soon as possible after childbirth. [n=340]

 The Employment (Amendment) Ordinance 2020, which increases the statutory maternity leave from 10 weeks to 14 weeks, will come into effect on 11 December 2020.

Living Arrangements during a MDW's Maternity Leave

Most respondents (74.4%) thought a MDW should not live with their employer when on maternity leave, while around a quarter (25.6%) said they should live with their employer. [n=340]



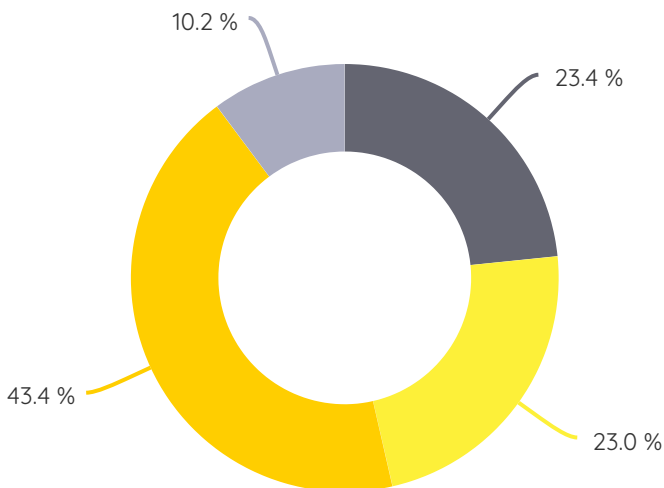
Of those who believed they should live out:

43.4% thought they should take maternity leave in their home country.

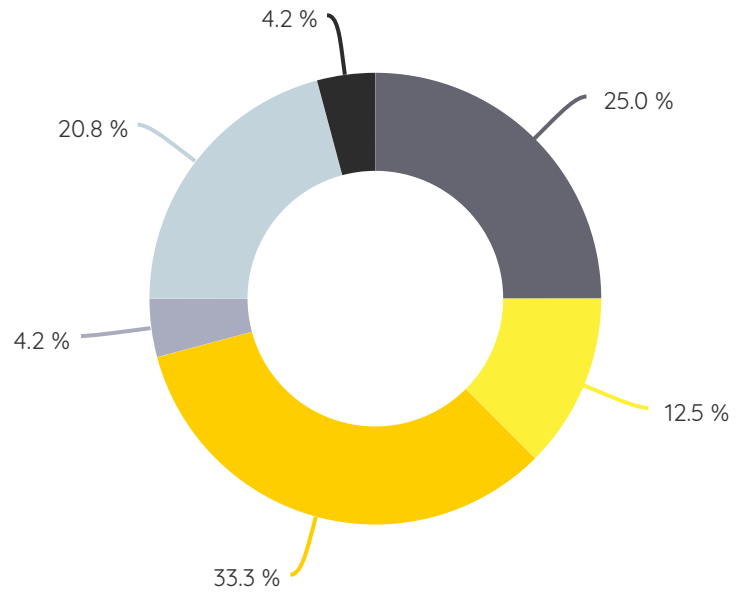
23.4% said living in would bring inconvenience to the employer and their household.

23.0% said living in would also be inconvenient for the pregnant MDW and their baby.

10.2% of respondents who thought MDWs should live out cited other reasons; a third expressed their concern towards limited living space, a quarter said the decision to live in was highly dependent on the quality of the employer-worker relationship, and another quarter said pregnant MDWs should make their own decisions whether to live with their employer or not, despite the current legislation which prohibits such an arrangement.



- It's inconvenient for the employers and their household
- It's inconvenient for the MDWs and their babies
- MDWs should take maternity leave in their home country
- Other reasons



- Depends on the employer-MDW relationship
- Employer has no responsibility
- MDW should live with their partner
- MDW's own choice
- If they are on leave they should live out
- Living space



Hear what some respondents thought...



“Homes are too small.”

~ Survey Respondent

“It is not fair to employers to expect them to accommodate a newborn baby due to a helper choosing to have a child.”

~ Survey Respondent

“It depends on the situation. It might not be appropriate or possible for the employer to host the mother and baby while still providing accommodation to another domestic worker to continue the required household and caring work. It sounds practically difficult to accommodate everyone.”

~ Survey Respondent

“It should be a decision between the helper and family.”

~ Survey Respondent

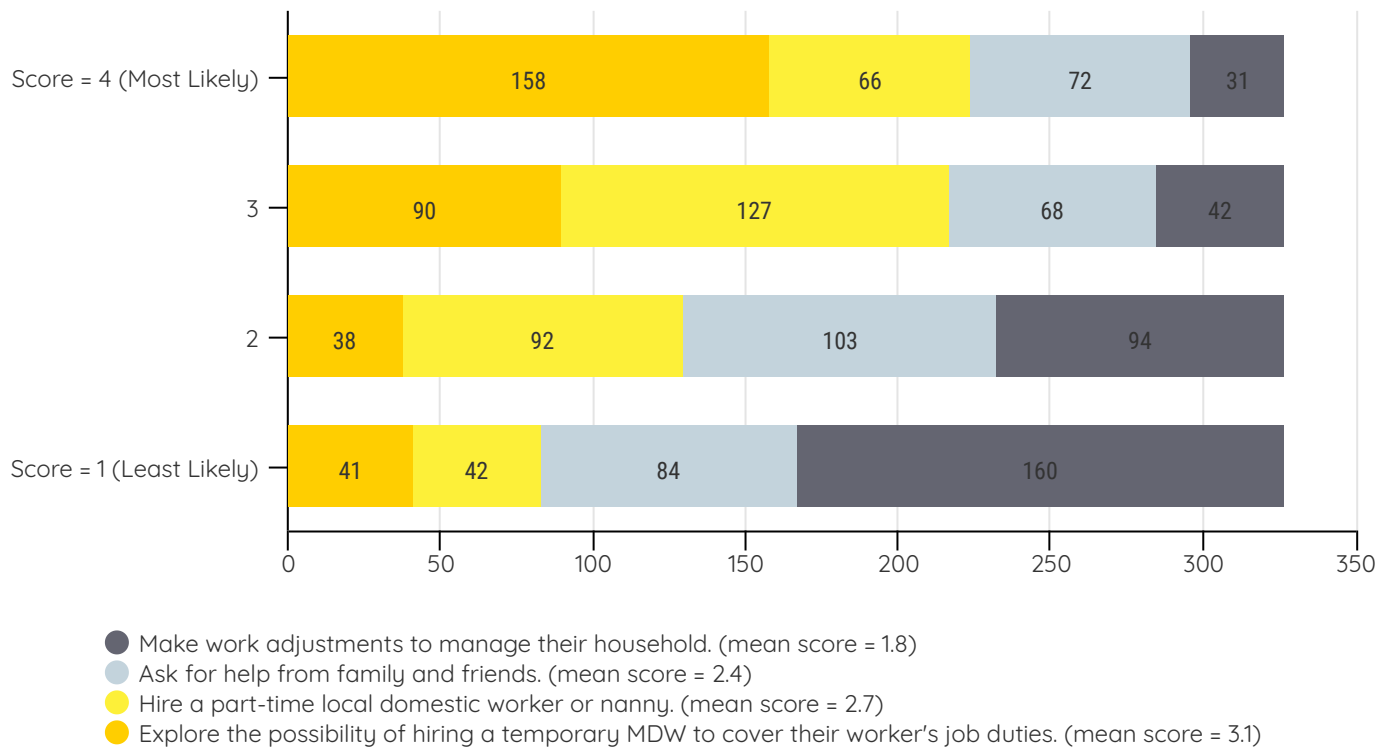
“There should be special housing for helpers on maternity leave to meet their needs.”

~ Survey Respondent

“Of course it’s good if the employers choose to look after their helpers out of their goodwill but you can’t force them to.”

~ Survey Respondent

Solutions Required to Support a MDW Pregnancy



Respondents were asked to score the following solutions in order of preference if they were faced with a MDW pregnancy; where 4 is the option they would most likely choose, and 1 the least likely. [n=327]

1. Make work adjustments to manage their household (e.g. reduce working hours, take annual and/or unpaid leave)
2. Ask for help from family and friends
3. Hire a part-time local domestic worker or nanny
4. Explore the possibility of hiring a temporary MDW to cover their worker's job duties

When faced with a MDW pregnancy, most respondents would first consider exploring the possibility of hiring a temporary MDW to cover the job duties of their MDW while she was on maternity leave (highest mean score: 3.1). This solution is not currently available.

They would then consider hiring a part-time local domestic worker or nanny (mean score: 2.7) or ask for help from their family and friends (mean score: 2.4) to cover the pregnant MDW's job duties. The least favourable option would be to make work adjustments, such as reducing their own working hours and taking annual/unpaid leave to manage their household's needs. (mean score: 1.8)



In 2003, the Hong Kong SAR Government passed a law that prohibits all Migrant Domestic Workers from living out. Lying about the accommodation arrangement would amount to a false representation to the Immigration Department and is an offence under the Hong Kong Immigration Ordinance.

In a recent court case in September 2020, the Court of Appeal reaffirmed that "live-in" policy should remain, citing local labour competition as the reason to uphold the policy.

Next Steps

Taking the Findings Forward

1. A Dilemma With Complex Challenges

The survey confirms the long-standing dilemma and challenges of many people in Hong Kong, who rely heavily on the help and support of a MDW.

While the majority of respondents believed a pregnant MDW should be entitled to maternity protection, like all working women in Hong Kong, most respondents considered a MDW pregnancy to be unacceptable.

All too often MDWs are illegally terminated from employment or pressured to resign, because the worker and employer simply didn't know what else to do. This survey highlights the complex challenges faced by employers.

The three common challenges faced by most employers during a MDW pregnancy are:

1. Financial stress of maternity leave pay and alternative temporary help;
2. Lack of available and viable options to provide temporary support while their MDW is on maternity leave - especially for those with young children and/or elderly parents;
3. "Live-in" policy that requires a MDW to live in the employer's home.

Interestingly, a pregnant MDW and her employer share a common dilemma - the fear of losing employment.

Most employers would prefer not to make adjustments at their workplace when faced with a MDW pregnancy, but struggle to find temporary solutions to meet their household needs while maintaining their employment.





“

The first thing many employers say when their helpers are pregnant is what will happen to my children. Many couples hire helpers as they work full-time, mainly to care for young children. The second thing that comes to their mind is maternity leave salary and salary for local helpers. Employers also worry if their helpers will come back to work once their maternity leave is over, and hiring a new helper is costly. For middle-to-low income and single-parent families, it will be a real struggle for them financially. Local helpers are expensive and hard to find. When the employer has little or no help, both husband and wife would need to take turns to manage their household for 14 weeks. They would need to take extra days of leave, and fear losing their jobs.”

Ms Michelle Lau
Tophand Consultancy Ltd
(Employment Agency)

Case Story



Julie*, a MDW employer, approached PathFinders when her MDW was in the last trimester of her pregnancy. Her MDW had been her lifeline so she could earn an income to support herself and her young child. Julie was a single mother and the sole breadwinner with no family support. The nature of her job did not allow her to work from home or take time off her long workday to care for her child. She felt anxious and needed to understand what her options were when her MDW was on maternity leave. Hiring a local domestic worker would not be possible as she could not afford the high fees. Due to the lack of suitable options, Julie eventually chose to enter into a 2-year employment contract with an additional MDW whose service she would actually not need once her first MDW is back from maternity leave. Although far from being ideal and above her budget, it was still relatively the most affordable and practical solution for her situation.

**The name has been changed to protect the person's identity.*

2. The Need for Solutions

Labour Department guidance confirms all employers - including employers of MDWs - may apply to the Government for reimbursement of the additional 4 weeks of maternity leave pay. The reimbursement scheme will be implemented in the first half of 2021.

While a welcomed development for employers, PathFinders fears it will do little to mitigate the ongoing risk of a pregnant MDW being dismissed from her employment. For many employers, the financial stress of the remaining 10 weeks of maternity leave payment and expensive temporary support solutions, now for 14 weeks, will continue to be a very real concern - especially for those from lower-income households with limited alternative care options for young children and/or elderly parents.

Most survey respondents viewed hiring a temporary MDW to cover the job duties of their worker while on maternity leave (resembling a relief worker scheme) as the most desirable solution. However, this option is not presently available due to the standard two-year contract which prohibits MDWs from taking up short-term employment. It would require changes to the existing contractual terms and MDW visa policy before it could become a reality.

The "live-in" policy, which requires MDWs to reside at their employers' homes at all times, also requires a solution. It is incredibly challenging for many employers to continue to house a MDW while on maternity leave, especially if they need to create space for an additional worker to provide temporary support. Adding to the complexity and tension, employers are not obligated to provide accommodation for the worker's newborn baby. A number of employers PathFinders has spoken with, including parents of young children, expressed their reluctance to live with a newborn due to a baby's frequent crying. The lack of clear boundaries when sharing the space with employers during their maternity leave also caused some MDWs to feel the pressure to work during their leave as they "felt bad".



"Practical reasons:

(1) Employers have no responsibility to provide a place of living for their baby.

(2) If the employer needs to hire a replacement, the new helper needs a place to live too... HK's flats are just too small to accommodate more people to live...

(3) If they are on leave, they themselves should not be staying in the flat, right???

(4) The newborn's cry in the middle of the night will definitely disturb the employers quality of rest at night..."

~ Survey Respondent

When employers' needs are left unmet, more MDWs risk becoming illegally dismissed from their jobs and overstaying in Hong Kong illegally. As a result many migrant mothers and children become unsupported and extremely vulnerable, and in need of PathFinders' assistance.

“Ensuring pregnant MDWs are not unlawfully dismissed from their jobs is extremely critical so they don't end up overstaying illegally. This will protect their unborn children and prevent them from becoming undocumented, stateless and unable to access essential services like healthcare and education.”

Catherine Gurtin, CEO of PathFinders

Without clear guidelines and viable solutions that enable employers to support their pregnant MDW, PathFinders' greatest concern with the new maternity leave legislation is the problems seen at PathFinders will only escalate. Recognising the need for solutions, PathFinders, therefore, will continue to engage different stakeholders, including employers of MDWs and members of the public, to develop potential win-win solutions.

Building upon the findings of this survey, in 2021, PathFinders will complete a more detailed survey with MDW employers to better understand their acute challenges as well as their experiences with employment agencies. The results will further inform the development of practical and favourable solutions for employers and their MDWs. PathFinders plans to consolidate, present and discuss these solutions with all concerned stakeholders, including the HKSAR Government.

3. Increased Public Education On MDW Maternity Rights Needed

Survey findings confirm knowledge gaps remain concerning the maternity rights of MDWs and the legal responsibilities and obligations of MDW employers. For example, 8.3% of respondents who found a MDW pregnancy unacceptable believed it was against the law and a breach to the employment contract.

Public education is especially critical when the number of MDWs is forecast to surge from the present 390,000 to 600,000 by 2047. Most of these MDWs are women of childbearing age.



It is imperative knowledge gaps are filled to ensure there is no ambiguity or misunderstanding of MDW maternity rights. This will help prevent illegal abortions, risky unassisted home births at employer's homes and discarding of the fetus with significant criminal consequences.

Conclusion

The results of this public opinion survey reveal a number of important findings. As well as measuring public acceptance towards MDW pregnancy and their maternity leave entitlement, this report quantifies some of the challenges faced by pregnant MDWs and their employers.

This report serves as a timely reminder that the increase in maternity leave from 10 to 14 weeks on 11 December 2020 may not be welcomed by all working women and their employers. **Survey responses validate the need for practical and affordable solutions to ensure pregnant MDWs do not continue to be illegally dismissed from employment and made immediately homeless, resulting in their children becoming some of the most vulnerable and unsupported in Hong Kong.**

Members of the public are welcomed to submit their views and recommendations to info@pathfinders.org.hk.

 REACH OUT TO US

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