

Serena Williams Wimbledon return sparks maternity debate

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As one might imagine, the return of top tennis player Serena Williams to Wimbledon has not been without media brouhaha and comment – from both the press and her colleagues.

Last year, Williams went on maternity leave from the world of tennis to give birth to her daughter. Prior to this she had won a Grand Slam whilst - unbeknownst to most - two months pregnant.

Yet, there has been consternation regards her tournament seeding and rankings now she has returned – effectively the protection afforded, or not, to Williams regarding her place in the female tennis work hierarchy.

Williams held the No.1 position when she left for maternity leave in April 2017; this fell to 451st by May 2018.

Despite this, Williams was the 25th seed for this year's Wimbledon. Although she had impressively climbed back up to 181st the world, she was still outside the top 32 ranked players that traditionally earn Wimbledon seedings - seedings effectively being a favourable entry position in the competition.

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The 32nd ranked player in the world, Dominika Cibulkova, was not seeded. She spoke out against Serena having an artificially-raised seeding, telling the BBC: "I don't think it's the right thing to do. I think it's just not fair. I have tried, and I should be seeded. If they put her in front of me then I will lose my spot that I am supposed to have."



Although Williams has proved that she deserves to be back at tennis' top table – the impressive 36-year-old has made it to this year's final – it has sparked a debate regards how maternity leave is offered and how it affects those who continue in the workplace.

With the exception of Williams, all of the women players at Wimbledon this year are seeded in line with their World Tennis Association rankings.

Speaking exclusively to HR Grapevine, Lucy Lewis, Partner and Head of the employment team's Advertising and Marketing sector group at Lewis Silkin, explained that any protection for rectification of a woman's position at work, because of maternity leave, must be proportionate.

She said: "It is permissible to make special provision for a woman in connection with maternity leave or pregnancy or childbirth provided that does not go beyond what is necessary to rectify the woman's disadvantage – for example, any special treatment must be proportionate.

"What is proportionate will vary significantly on the facts of each case. In the employment context, the most analogous situation has been how a woman who have been on maternity leave should be scored in a redundancy exercise.

"For example, it has been held that it is was not proportionate to assume the highest level of performance, and so the highest score during maternity leave."

Lewis applies this to the Williams' case. "If that broad analysis is applied in the context of Serena Williams's seeding at Wimbledon, it would seem that the organisers have tried to act proportionately," she adds.

"There is no doubt that falling outside the seedings would have been a disadvantage that Selena Williams suffered because of her pregnancy and maternity leave. Serena Williams was not returned to her No.1 seeding and it is more than arguable that being seeded 25th was a proportionate step to remove the disadvantage of maternity leave consistent with equality law."

Do all working mothers have the same protections?

Whilst Williams has benefited from protected status, findings from Working Families show that 54,000 women lose their job every year because of maternity discrimination.

Julia Waltham, Head of Policy & Communications at Working Families, explained why it is important maternity leave is enshrined by law.

She told HR Grapevine: “In the UK, pregnancy and childbirth warrant special protection by law. Time off to recover from childbirth is distinct from other types of leave – again, sick leave is the best example.

“Maternity leave is something that all mothers have to take, not least to allow them to recover from the physical experience of childbirth – something unique to women – and to bond with their new baby (for example during breastfeeding).

“Clearly, we want happy, healthy mothers and new babies – so it’s something that society as a whole benefits from.”

However, not all employers might know how to ensure they’re protecting working mothers and those who might plan to take maternity leave.

Waltham has advice around this subject. “Whilst employee’s needs for flexibility will vary, flexible working is too often arranged on an ad hoc, individual basis - which can lead to certain groups - mothers, for example -working flexibly,” she said.

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Waltham notes that communication around this topic is crucial – maybe if there had been more obvious communication around Serena’s partially-protected seeding, and other players felt they would have the option too, arguments wouldn’t have arisen.

Waltham adds: “Make flexible working available to all employees. Advertise all jobs as flexible and move towards a position where it’s the default to justify why jobs cannot be done flexibly - as opposed to the other way around. Invest in support for line managers to ensure commitments to family-friendly working are aligned across the organisation.”

Currently, equality legislation works to protect women during pregnancy and maternity leave, to remove the disadvantages they might bear a result of being on maternity leave.