

# POLICY IN THE HOME

Hong Kong Employers  
Confront Migrant  
Domestic Worker  
Pregnancy

Four Case Studies to  
Understand Systemic Barriers  
to Providing MDW Maternity  
Protections August 2025



融幼社  
PathFinders

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Rusy and Purviz Shroff  
Charitable Foundation



Consulate General  
of the Federal Republic of Germany  
Hong Kong

EVERSHEDS  
SUTHERLAND

## GENERAL ABBREVIATIONS

EO - Employment Ordinance  
FDH - Foreign Domestic Helper  
LDW - Local Domestic Worker  
MDW - Migrant Domestic Worker  
SEC - Standard Employment Contract

## INFOGRAPHIC ABBREVIATIONS

HK - Hong Kong  
ImmD - Immigration Department  
ML - Maternity Leave  
MLP - Maternity Leave Pay  
MP - Maternity Protections

## ACKNOWLEDGMENTS

PathFinders would like to sincerely thank Eversheds Sutherland, Rusy and Purviz Shroff Charitable Foundation and the German Consulate General in Hong Kong for their belief, support and partnership in our approach to driving Systemic Change. We also deeply appreciate the ongoing support of our colleagues, the MDW community, employment agencies, and research partners, whose invaluable contributions made this study possible.

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## ABOUT PATHFINDERS

Established in 2008 on the belief **no child should be born alone** and deprived of an identity, basic supplies, healthcare and shelter, PathFinders ensures some of the most vulnerable and unsupported children in Hong Kong are protected and respected, and their migrant mothers are empowered to find a path to a brighter future.

### At PathFinders our:

#### Crisis Intervention

services provide comfort, care and counselling to migrant mothers and children in crisis. In addition, access to healthcare, emergency shelter, education and essential supplies.

#### Crisis Prevention

programmes empower MDWs to make well-informed life decisions while working in Hong Kong, and provide employers with support to ensure pregnant MDWs maintain job security and access to public services.

#### Systemic Change

initiatives engage the general public to increase understanding and support for children born to MDWs, and seek to create solutions for employers to continuously support their household needs if/when their MDW is on maternity leave.

# 01 INTRODUCTION

## Research background, aims and objectives



Reyna (pseudonym), a migrant domestic worker (MDW) delivered her baby prematurely at a hospital in Hong Kong, altering the course of maternity leave she had planned to take in the Philippines, and upending a tenuous agreement with her employer.

Reyna is one of 368,000 MDWs in Hong Kong who enable dual income households to maintain their lifestyles, balancing work, child and eldercare—a unique economic contribution acknowledged in government communiques.

The government’s “Statistical Highlights” (2025) states that MDWs enable “housewives to re-join the labour market,” noting that in 2023, 82% of women in households with children employing MDWs worked compared to only 46% in households that did not. This document also draws attention to the increased hiring of MDWs to care for the city’s growing elderly demographic, estimated to comprise over 38% of the population by 2040. The Labour Department said in 2017 that 600,000 MDWs would be needed by 2047 to meet the rising demand for eldercare (Siu, 2017).

Alongside such research, the Labour Department develops online resources for MDWs and employers on their legal rights and obligations. Such resources emphasise that MDWs in Hong Kong “are entitled to the **SAME rights and protection** as those of local employees

provided under the [Employment Ordinance (EO)]” (Labour Department, 2024c, p. 3). These rights also include maternity protections (LegCo, 1999; Paul & Neo, 2017; Ullah, 2010), though this is not widely known.

As a result, Reyna and other MDWs who get pregnant often struggle to access their entitlements in practice and face difficult journeys navigating the healthcare system and providing care for their newborns.

**Under Hong Kong labour laws, all working women, including MDWs, are eligible for maternity protections. This includes freedom from employment termination due to pregnancy, 14 weeks maternity leave,<sup>1</sup> and entitlement to public healthcare.**

**However, when an MDW’s pregnancy is disclosed, PathFinders casework shows many employers lack sufficient knowledge and accurate guidance to ensure fair working conditions, job security, and access to healthcare continue.**

Employers are focused on maintaining household functionality and a continuum of care for family members in anticipation of the MDW’s upcoming absence. Even those who acquire information about their legal obligations find themselves facing competing labour and immigration regulations that prevent the convenient and affordable hiring of a temporary replacement worker.



Freedom from  
DISMISSAL



Maternity Leave  
14 WEEKS



Maternity Leave  
80%  
of normal wages

<sup>1</sup> An MDW is eligible for paid maternity leave if she has worked continuously for at least 40 weeks before the start of the leave period. If an MDW has not been employed for this length of time, she is entitled to 14-weeks maternity leave without pay (Labour Department, 2025a).

## Three legal options for maternity leave cover

Hire an additional live-in MDW on a two-year contract

Hire an LDW, on a task-by-task basis

Run households themselves or with the help of extended family

Since 2003 MDWs have been subject to the live-in rule, requiring them to reside in their employers' homes (Cheung, 2018). Notably, there is no clear exemption for maternity leave (see Labour Department, 2024a, Q&A, p. 22). If an MDW chooses or has to deliver her baby in Hong Kong, her employer must continue to house her upon the commencement of leave while exempting her from work.

If an employer wants to cover the duration of the MDW's absence with a temporary replacement worker, they may choose from three legal options, all of which raise concerns. First they can hire an additional live-in MDW on a two-year contract, but this could exceed a household's spatial capacity, long term financial means, and its actual care needs. Second, they could hire a live-out local domestic worker (LDW), which may not fully meet a household's needs, as they are typically available on task-by-task rates (FEA, 2025). Third, when these options are financially unfeasible or unsuitable, employers must opt to run the household themselves with the help of extended family.

While some employers may be willing to maintain a pregnant MDW's contract until maternity leave, they may also learn of legal loopholes to avoid this obligation, and coerce resignation.

MDWs are not generally allowed dependents in Hong Kong (Immigration Department, 2020b). Upon discharge from hospital, an MDW—now parent to a newborn—must return to her employer's residence if she chooses to take maternity leave in Hong Kong.

However, due to the aforementioned policy, the employer has no legal obligation to house the MDW's child. As a result, MDWs and their newborns may face separation during the most critical and early days of nurturing care and child development (WHO & Unicef, 2021).

Currently, over 33% of PathFinders' cases<sup>2</sup> involve pregnant MDWs who request assistance attempting to access maternity protections, including negotiating leave and voluntary agreements to allow childcare, navigating an unfamiliar healthcare system, and challenging unlawful termination.

Some PathFinders cases evolve from independent or joint inquiries from employers who contact the organisation for information and help responding to their MDW's pregnancy announcement. Questions range from whether they are responsible for covering the MDW's prenatal medical fees or housing the MDW and her baby, to whether it is permissible to terminate the employment contract following leave.

Through these interactions, PathFinders understands many of the challenges employers face when attempting to provide an MDW maternity leave. With household functionality dependent on paid care, they often feel trapped by labour and immigration regulations that preclude hiring a replacement worker and obligate them to continue housing their MDW while she is on maternity leave and exempt from working. At the same time, competing labour and immigration regulations may allow an employer to exploit an MDW's circumstances (Palmer & Tan, 2022) and withhold her right to balance work, pregnancy, and newborn care—the very purpose of maternity protections.



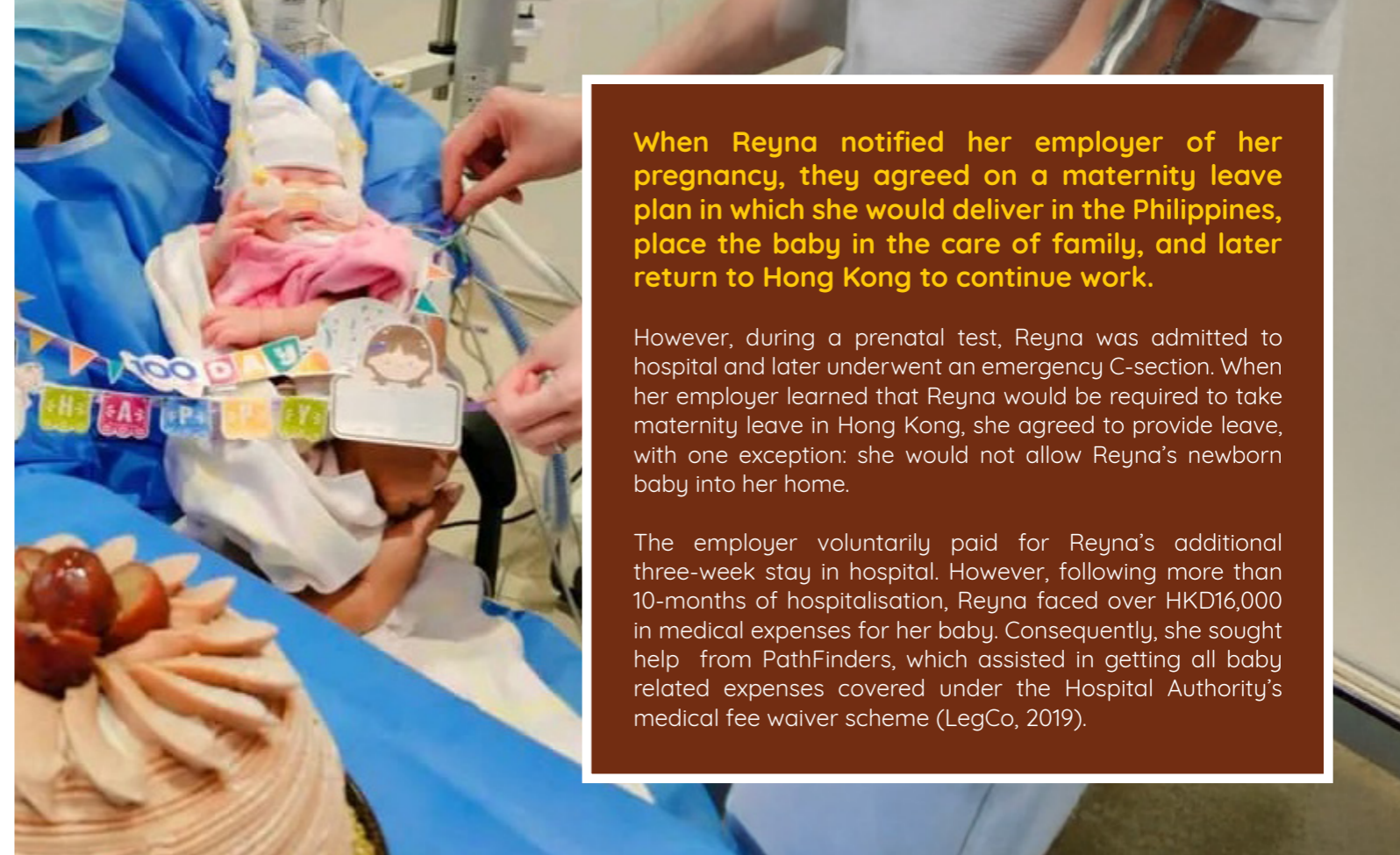
### LIVE-IN RULE

No exemption for ML if the MDW delivers her baby in HK



### NO-DEPENDANTS RULE

Employers are legally responsible solely for the MDW, not her child.



When Reyna notified her employer of her pregnancy, they agreed on a maternity leave plan in which she would deliver in the Philippines, place the baby in the care of family, and later return to Hong Kong to continue work.

However, during a prenatal test, Reyna was admitted to hospital and later underwent an emergency C-section. When her employer learned that Reyna would be required to take maternity leave in Hong Kong, she agreed to provide leave, with one exception: she would not allow Reyna's newborn baby into her home.

The employer voluntarily paid for Reyna's additional three-week stay in hospital. However, following more than 10-months of hospitalisation, Reyna faced over HKD16,000 in medical expenses for her baby. Consequently, she sought help from PathFinders, which assisted in getting all baby related expenses covered under the Hospital Authority's medical fee waiver scheme (LegCo, 2019).

During this time, Reyna returned to her employer's home to spend the majority of her maternity leave, while her baby remained in intensive care. Her employer exempted her from work and hired an LDW to do household chores. She also made a timesheet to manage Reyna's live-in leave, instructing her to sign in and out daily when she visited her baby. After she returned to work, Reyna juggled hospital visits with housework duties and signed an agreement stating she would not bring the baby to her employer's home once discharged.

Reyna planned to buy a flight ticket once her baby had a clean bill of health, take her to the Philippines, and then return to work. Her employer agreed with this arrangement and provided one month's unpaid leave. Reyna then hoped to discuss the renewal of her contract as they had multiple times over the past decade.

But a few months later, her baby contracted MRSA, a contagious and drug-resistant infection, and her contract was terminated. In the document to the Immigration Department, her employer cited "early release" as the reason for the contract's end and said that Reyna had found a new employer.

Reyna was eventually able to safely fly her baby back to the Philippines and recently returned to Hong Kong to work for a new employer.



<sup>2</sup> The remaining cases largely involve protection claimants who require assistance accessing maternity healthcare under Hong Kong's humanitarian social welfare assistance programme (Constable, 2014; International Social Service, 2019).

PathFinders' research aims to understand what prevents employers from providing MDWs with maternity protections. We aim to provide best practices, policy reform, and household solutions that better enable employers to meet their legal obligations—and thereby remove barriers for MDWs to access maternity protections.

PathFinders' Employer Survey Report (2022) found that the combination of low employer awareness of MDW maternity protections, disproportionate reliance on paid care to manage households, and negative attitudes toward workers, can lead to unlawful contract terminations. Only 51% of respondents knew MDWs are eligible for maternity leave, while 84% believed they could dismiss a pregnant worker as she would not be able to perform her work duties.



51%

knew MDWs are eligible for maternity leave



84%

believed they can dismiss pregnant MDWs

Expanding on these findings, the current research aims to understand how employers might respond to a pregnancy notification from their MDW. It explores how employers feel an MDW pregnancy would impact their household, how they understand and interpret legal obligations to provide maternity protections, and what actions they would take to provide maternity leave while maintaining household functionality.

This report shares excerpts of interviews with four employers—Mary, Kelly, Henry, and Daisy (pseudonyms)—who were each asked what they would do if their MDW became pregnant.<sup>3</sup> Each employer was presented with two realistic MDW pregnancy scenarios to consider within their own households (shown on page 13). In each scenario they encountered increasing legal restrictions to contract termination, removing the MDW from their home, and sourcing a replacement.

The participants were selected through a purposive sampling method (Campbell et al., 2020), including no prior experience with MDW pregnancies, employment of one live-in MDW for more than one major care need, and no familiarity with PathFinders' work.

All the participants are Hong Kong permanent residents including one expatriate. They are from middle and high income households, with hiring histories ranging from first-time employment of an MDW to over 30 years of experience employing different MDWs. Their MDWs' main duties involve child- elder- and pet care, household chores, grocery shopping, and meal preparation.

This criteria was set to explore how an ordinary Hong Kong employer might attempt to manage an MDW pregnancy while ensuring typical household needs are met, with little to no knowledge of maternity protections.



**Mary**  
Branch Manager



**Kelly**  
Project Manager



**Henry**  
Retiree



**Daisy**  
Finance Professional

Narrative analysis was applied to examine each employer's responses to managing a hypothetical MDW pregnancy. This involved two layers of interpretation: first, examining the employer's own narration of their household circumstances and management of the MDW, and second, an examination of their reactions to the possibility of a pregnancy announcement and its impact on their paid care needs. We explored how these posed attitudinal and practical challenges to providing maternity leave, and informed their proposed solutions. The analysis focused on understanding the reasons behind why and how they aimed to provide maternity protections and leave<sup>4</sup> to their MDWs—or not—while illuminating their thought process.

Through a document analysis we show how employer responses may reflect informational gaps in official Foreign Domestic Helper (FDH) literature (Labour Department, 2024a, 2024b).<sup>5</sup> We also compare interviewee responses with practice at PathFinders to illustrate how the circumnavigation of legal obligations and the mismatch between FDH guidelines and household needs compromises MDWs' full access to maternity entitlements. We situate our research within academic scholarship on MDW access to maternity rights (Constable, 2014; Kwok & Lam, 2024; Palmer & Tan, 2022), and studies of domestic work environments and causes of conflict in MDW-employer relationships in Hong Kong (Chan, 2005; Cheung, 2021; Cheung & Lui, 2021). Finally, we draw attention to the uneven bilateral agreements that underlie precarity in migrant women's social security and access to reproductive healthcare (ILO, 2015; Kwok & Lam, 2024; Loganathan et. al., 2020; UN, 2022). This approach allowed for an exploration and understanding of the power asymmetries and structural inequities that shape access to maternity leave for MDWs in Hong Kong.

<sup>3</sup> Interviewee responses were edited for clarity.

<sup>4</sup> Methodologically we distinguish maternity protections as the period between the announcement of pregnancy until the commencement of leave, during which time the MDW continues to work and should remain free from termination due to pregnancy discrimination. While the latter should also remain the case during leave, the context for unlawful termination changes as the MDW is exempt from work. In other areas of the report, maternity protections refers to both periods and the overall safeguarding of reproductive healthcare rights.

<sup>5</sup> This report uses the terms FDH and MDW separately. The former refers to Hong Kong's labour migration system, literature, and policy, while the latter refers to the workers themselves.



## Key Insights & Recommendations

Across the interviews it was noticeable that employers felt unsure or uncertain about how to respond to a pregnancy announcement from the MDW, carry out maternity protections, and provide leave.

Their responses revealed varying levels of stress, driven by three key concerns: maintaining household routine without the usual paid care; fearing responsibility and liability for the MDW's prenatal - and baby's - health and safety; and managing spatial constraints of housing mother and newborn.

Stress diminished when employers resolved logistical challenges—ensuring household operations continued smoothly—even if this meant avoiding legal obligations to provide maternity protections and leave.

Drawing from the case studies and building on earlier research, PathFinders has developed the following recommendations to support employers with responding to and managing MDW maternity leave. We show how the absence of adequate knowledge, policies, and solutions compromise employer ability to provide maternity protections and how improvement in these areas can increase MDW job security, healthcare, and parenting rights.



### Enhancing employer knowledge of MDW maternity protections

Mandatory Labour Department-training for employers on MDW maternity rights



### Guidance and practical support for employers managing MDW pregnancies

Develop MDW maternity protections training for employers



### Removal of FDH ML policy gaps

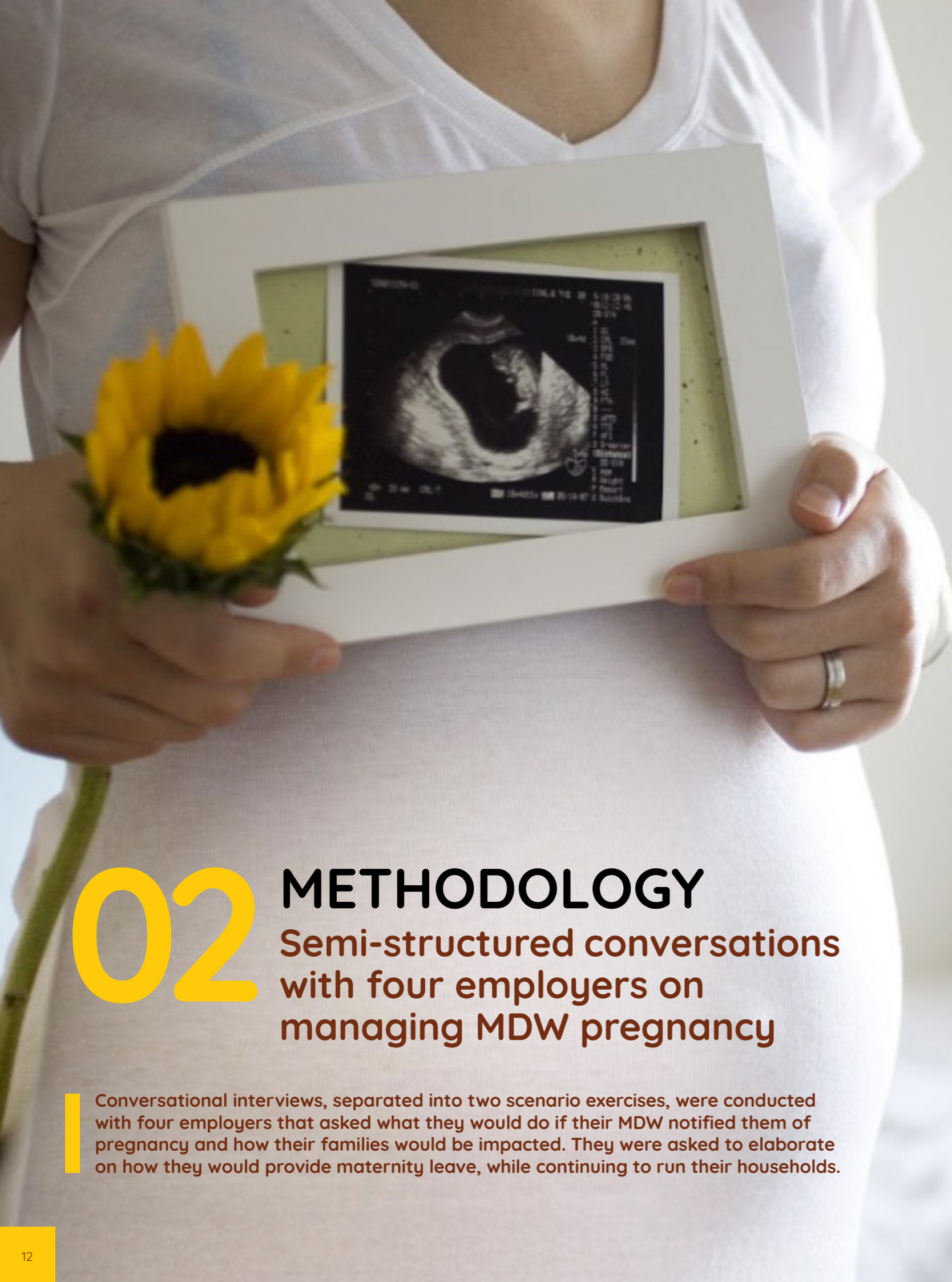
Improve official guidance for employers providing MDWs ML



### Promoting MDW ML insurance and temporary replacement work

PathFinders partners with insurance companies and LDW agencies to explore creating an MDW maternity rider





# 02 METHODOLOGY

## Semi-structured conversations with four employers on managing MDW pregnancy

Conversational interviews, separated into two scenario exercises, were conducted with four employers that asked what they would do if their MDW notified them of pregnancy and how their families would be impacted. They were asked to elaborate on how they would provide maternity leave, while continuing to run their households.

### Scenario 1

Your MDW is pregnant. What do you do?

In the first exercise participants were provided with standard legal information, as outlined in the “Know Your Obligations. Be a Responsible and Smart Employer. A Handbook for Employing Foreign Domestic Helpers” - hereafter Employer Handbook (Labour Department, 2024a)<sup>6</sup> - to see how they understood the basic provision of maternity leave.

<p><b>MDW announces pregnancy</b></p> <ul style="list-style-type: none"> <li>• At 3 months</li> <li>• 40 weeks <b>following</b> start of contract</li> <li>• Requests ML</li> </ul>	<p><b>Employers review legal obligations</b></p> <ul style="list-style-type: none"> <li>• Not to dismiss MDW</li> <li>• Provide 14 weeks ML/P at 80% of usual salary</li> <li>• Resume contract, following completion of leave</li> </ul>
<p><b>Employers explain how they would balance care needs and provide ML, while considering:</b></p> <ul style="list-style-type: none"> <li>• Income and number of earners</li> <li>• Number and age of babies, children or elderly</li> <li>• Apartment size &amp; MDW’s living accommodations</li> </ul>	<p><b>We wondered whether employers would devise plans that satisfy both employer and MDW needs or only their own, and to what extent the employer would be comfortable providing ML.</b></p>

### Scenario 2

Your MDW is going to deliver her baby in Hong Kong. What do you do?

The second scenario introduced additional regulations to see how participants would actually provide maternity leave.<sup>7</sup>

<p><b>MDW announces pregnancy</b></p> <ul style="list-style-type: none"> <li>• At 3 months</li> <li>• 40 weeks <b>following</b> start of contract</li> <li>• Requests ML and <b>states intention to deliver in HK</b></li> </ul>	<p><b>Employers review legal obligations</b></p> <ul style="list-style-type: none"> <li>• Not to dismiss MDW</li> <li>• Provide 14 weeks ML/P at 80% of usual salary</li> <li>• Resume contract, following completion of leave</li> </ul>
<p><b>Employers explain how they would balance care needs and provide ML, while considering:</b></p> <ul style="list-style-type: none"> <li>• Income and number of earners</li> <li>• Number and age of babies, children or elderly</li> <li>• Apartment size and MDW’s living accommodations</li> </ul>	<p><b>Employers consider additional regulations</b></p> <ul style="list-style-type: none"> <li>• MDW must live-in during ML in HK</li> <li>• No requirement to house MDW’s newborn</li> <li>• Only options for paid ML cover are:             <ul style="list-style-type: none"> <li>• hire additional, 2-year, live-in MDW</li> <li>• hire temporary live-out LDW</li> </ul> </li> </ul>

It was predicted that participants would become acutely aware of the legal restrictions and practical difficulties of providing maternity leave.

<sup>6</sup> For a full understanding of employer legal obligations when providing MDW maternity protections and leave, including timing, documents, pay, duration, fines, and other items, see sections 3.7.1-3.7.2 of the Employer Handbook (Labour Department, 2024a, p. 33-35)  
<sup>7</sup> The Employer Handbook (Labour Department, 2024a) states that the live-in rule must be maintained during an MDW’s maternity leave in Hong Kong; the Immigration Department (2020b) notes on a webpage listing visa eligibility criteria that FDHs are “not eligible to bring their dependents to Hong Kong for residence.”

# 03

## EMPLOYER CASE STUDIES

Your MDW is pregnant.  
What Do you do?



**Mary**  
Branch Manager



**Kelly**  
Project Manager



**Henry**  
Retiree



**Daisy**  
Finance Professional



# COERCING A MUTUAL AGREEMENT



## Mary Branch Manager

Describing herself as a working mum—"a workaholic"—in a fast-paced city, Mary relies on her live-in domestic worker for childcare, household tasks, and dog walking. Her family of four, including her spouse and two sons, 11 and 15 years old, lives in a double-storey, 1400-square-foot apartment. Her experience contracting paid care highlights how personal and professional boundaries can become obscured in domestic settings.

**Age:** 30 Years Old

**Income:** \$150-200k (HKD / month)

**Appartment size:** 1400sq ft

**Number of people:** 4

**1 MDW FOR:**

When asked what she would do if her MDW was pregnant, Mary responded:

**“ I will be friendly and ask ‘what do you want for your future - do you want to have a baby here?’**

She added:

**“ But it’s quite difficult. I will tell her my difficulties.**

When discussing maternity leave arrangements, however, Mary expressed relief at the possibility of her MDW independently choosing to return to her home country to deliver the baby.

**“ I think that is a pretty good decision [to return home] because she has family around her. Yeah, it’s very important because she’s pregnant... In Hong Kong, she would be very alone.**

Drawing attention to the formality of their relationship, she said it was quite different as it was “not that kind of family thing” between them.

Mary said she would take action to ensure her MDW returns to her home country, while also obtaining a recommendation for a new helper from her - thereby ensuring a smooth transition within the household.

**“ I would just buy her a ticket and send her to the airport, contact her, FaceTime her. And then I think before she leaves I will ask if she can recommend any good helper for me.**

If her MDW expressed a wish to return to Hong Kong to continue employment following the delivery of her baby, Mary said they would have to discuss options.

**“ Because she would have stopped working, I would have hired another helper on a two-year contract.**

Later, Mary clarified: “We can have a mutual agreement to stop the contract right?” Termination of an MDW contract due to pregnancy is unlawful, but Mary explained how she would bypass this restriction.

**“ I don’t have to really terminate her, so I think it’s just like informing**

**Immigration and saying, ‘due to the household situation change, we want to stop the contract.’ Probably, I will not inform them she’s pregnant.**

Employer Handbook (Labour Department, 2024a) “tips” state that if an MDW “wishes to return to her place of origin to give birth and take maternity leave both parties can discuss the relevant arrangement so that she and her baby may have the support from her family and friends in her home country.” Afterwards, the tips note that the MDW “may resume duty upon the expiry of her maternity leave” (p. 35).

Attempting to remain empathetic to her MDW’s need for work, Mary said she was willing to help her find alternate employment in Hong Kong, and even falsify a contract to do so - an offence under FDH labour and immigration regulations.<sup>8</sup>

**“ I would tell her my difficulties, but I can help her to get back to Hong Kong. I can still put down that I hired her in Hong Kong, and then when she’s back she can find another employer.**

Mary’s “mutual agreement” approach masks coercive undertones as she plans to hire a new helper and keep her household running smoothly - ending her existing MDW’s work contract while she is on maternity leave.

## INSIGHT

Mary’s interview highlights how a lack of knowledge on how to professionally discuss and provide maternity leave in domestic settings can lead to unlawful employer actions, compromising a pregnant MDW’s - and future mother’s - job security.

Mary does not consider the importance of an employer maintaining a pregnant MDW’s contract, revealing a fundamental gap in her understanding of the prohibition of dismissal due to pregnancy. She fails to consider an MDW’s right to resume work following the delivery of her baby and the completion of maternity leave. Instead, Mary assumes her pregnant MDW will return to her origin country for leave, and shifts her focus to finding a replacement worker - a decision she expects her worker to understand and agree to. Mary remains unaware her intended actions undermine labour regulations put in place to ensure mothers of newborns maintain job security.

## Mary Relieves Her Difficulties

	Initiates discussion	Weighs options	Makes decisions	Achieves “mutual agreement”
<b>Goals</b>	Learn MDW’s delivery plan.	Get MDW to return to home country for delivery.	Arrange MDW’s return transportation.	Hire replacement worker.
<b>Feelings</b>				
<b>Challenges</b>	What if the MDW wants to deliver the baby in HK?	Is the relationship with the MDW, personal or professional?	What if MDW still wants to deliver baby in HK?	Bypassing ML & ImmD regulations.
<b>Motivations</b>	Get MDW to understand employer’s difficulties instead.	Free herself of the burden of caring for a pregnant MDW.	Obtain recommendation for replacement MDW.	Find replacement worker while original MDW delivers in home country.

<sup>8</sup> The Immigration Department (2020a) specifies that an MDW must only work for their stated employer, as identified in the SEC (clauses 4 a, b, and c). A violation of this agreement can result in prosecution for either the MDW or employer.

# NOT THE TIME AND PLACE



## Kelly Project Manager

Kelly is her family's main breadwinner. She and her husband are from Malaysia, work full-time, and do not have family in Hong Kong who can help them look after their baby.

This is their first time employing paid care. Kelly's interview highlights how the commodification of domestic labour prevents employers from seeing MDWs as women with equal employment and reproductive rights.

**Age:** 43 Years Old  
**Income:** \$100-150k (HKD / month)

**Apartment size:** 500sq ft  
**Number of people:** 3

**1 MDW FOR:**

Kelly disclosed that while she wanted to help with the topic of MDW access to health, had she known it was specifically about "helper pregnancy," she may have declined to participate in the interview.

**“ To be honest... I probably would have said no because I don't really have any good ideas to offer, nor do I have any experience.”**

Kelly acknowledged she understood employers must not dismiss MDWs due to pregnancy, but if her MDW told her she's pregnant, she admitted:

**“ I think the honest truth is, I'll be very unhappy.”**

To Kelly the convenience of "having a helper is to help with everything," but she wouldn't know how to assign tasks to a pregnant MDW.

**“ We all know that pregnant mothers shouldn't be doing heavy work. Long story short, it's not very convenient.”**

Kelly acknowledges that domestic work is often labour intensive and round-the-clock. She believes that such work should not be given to pregnant women, and therefore MDWs should not be pregnant. Kelly's assumption reflects information gaps in practical employer guidance on how to think about and provide maternity protections in domestic settings.

The Employer Handbook (Labour Department, 2024a) largely only explains eligibility for paid maternity leave, the prohibition of dismissal, and exemption from work "injurious" to pregnancy, upon provision of a medical certificate (p. 34). Citing her opinion of the purpose of domestic labour migration Kelly drew distinctions between appropriate and inappropriate types of pregnancies.

**“ One should generally plan for [pregnancy] and not have an unplanned one...When you are planning for pregnancy, there's also a time and a place for it.”**

Prioritising earning a remittance income was a logic she felt MDWs ought to imbibe, Kelly elaborated, reiterating her view MDWs should not be pregnant in Hong Kong because they are only here to work.

**“ It's actually the same idea: the helpers are here for a reason, correct? To make money so that they can send it home to their family. So, it's not the time and place.”**

Kelly is unable to see MDWs as women with the right to be pregnant while working (who therefore continue to send a salary home). Kelly then speculated on the causes of MDW pregnancy, attempting to categorise such an occurrence and her response on the basis of fault.

**“ Is it unplanned [with the partner], or unplanned because you were raped? Obviously for the latter, there's a lot more empathy; you try to help, because it's not her fault. You need to see what is driving the situation.”**

At the thought of managing her household during her MDW's maternity leave, defeated, Kelly said:

**“ I can tell you there's no one, I don't have family in Hong Kong...you heard my kid is quite young, and we are quite old parents, right?”**

Kelly fastens MDW identity and belonging in Hong Kong solely to working for Hong Kong families. MDW pregnancy presents an internal contradiction to her logic and reasoning that she's unable to reconcile. This, combined with disproportionate reliance on paid care, overshadows her ability to see pregnant MDWs as rights-bearing residents and women.

## INSIGHT

Kelly's responses challenge non-profit practitioners and policymakers to question how we can tackle biases that persist despite anti-discrimination policies. What is needed to supplement anti-discrimination policy with best practices in the context of women's domestic labour migration and access to reproductive rights?

Kelly's interview surfaces the question: how can FDH labour regulations and maternity protections be leveraged to facilitate a mindset shift among employers and mitigate discriminatory beliefs from turning into action, so they can value MDW reproductive healthcare rights?<sup>10</sup> The gap between compliance and genuine understanding reveals a significant challenge for an employer like Kelly. She appears unable to think about what she needs to do as an employer to provide maternity protections, remaining fixated on whether the circumstances that precipitate a hypothetical MDW pregnancy are permissible and worthy of her empathy—and therefore, her support.

## Kelly Expresses Her Beliefs

	Unhappiness	Complaints	Ponders MDW's motives	Admits needs
Goals	Reiterate MDWs shouldn't get pregnant.	Keep household running.	Is pregnancy planned or unplanned?	Keep household running.
Feelings				
Challenges	MP: MDWs are allowed to be pregnant.	MP: MDWs can't be dismissed due to pregnancy.	MP: MDWs are allowed to be pregnant and can't be dismissed due to pregnancy.	Complete reliance on paid care.
Motivations	MDWs are only in HK to work.	Pregnant MDWs can't work.	MDWs are only in HK to remit money.	Impossible to provide ML.

<sup>9</sup> We approached Kelly through an employment agency that helped connect us with their customers for this research. Kelly confirmed consent to participate, though she found the direction of the research unclear.

<sup>10</sup> For further understanding of the structural causes of reproductive healthcare inequality for MDWs in Hong Kong, see Kwok and Lam (2024). They argue that "partial citizen status" available to MDWs alongside a "non-ordinary" residency status undermines the principles of equal maternity access under the EO (p. 51), and also creates disparities in women's reproductive healthcare despite its enshrinement as a universal right in international conventions.

# CALCULATING AN EXCHANGE OF HEARTS



## Henry Retiree

Henry has employed multiple MDWs over the past 40 years, for both child and eldercare. Most recently, he hired an MDW to look after his elderly mother-in-law who lives in a separate apartment. Henry ascribes to an “exchange of hearts” domestic management philosophy which he says involves treating MDWs as family, while hoping they will demonstrate commensurate care to his household. Henry’s experience employing MDWs reveals the shortcomings of professionalising empathy and highlights the need for legal standards to safeguard their working conditions.

**Age:** 62 Years Old

**Income:** \$30k (HKD / month)

**Apartment size:** 1000sq ft

**Number of people:** 1

**1 MDW FOR:**

Thinking it unlikely his mother-in-law’s MDW would become pregnant at the age of 40, Henry said:

“ I haven’t seriously looked into what to do in this situation... There should definitely be maternity leave. This is certainly something that must be provided based on the law.

Henry added he would also consider his own needs and rights, and persuade the MDW to return home for delivery so as to avoid having her continue working.

“ The ultimate goal is not to continue having the pregnant employee work in the home, as it would generate too many uncertain factors.

When it was explained employers are prevented from ending contracts due to pregnancy Henry responded:

“ I will try not to arrange new tasks for the domestic worker.

Stating his understanding of maternity protections, Henry acknowledged the law does not allow for contract termination. “But if she continues to stay in Hong Kong and work in our home, it will lead to... inconvenience,” he said.

“ So I will inquire about her personal thoughts regarding the baby.... What’s her plan after giving birth?

Then Henry said he would probably “purchase a plane ticket for her,” allowing her to “choose to return to her hometown” to give birth—a seemingly gentle approach aligned with his “exchange of hearts” management style. When Henry was asked how he would feel if the MDW said she wanted to go back home for personal reasons, he said he would be “relieved,” as he would not have violated the law. “I’ll be completely at ease”, he added.

“ The [previous] solution is based on the helper being unwilling to leave Hong Kong or my residence and return to her local area for childbirth.

Henry suggests that offering a kind of permanent leave—without officially terminating the contract—will be mutually advantageous, replacing a verbatim understanding of breaking a contract with applying coercive techniques, to achieve desired outcomes.

“ If the helper requests to end the contract, and comes up with a [personal] reason then it’s like she understands the employer, and the employer understands the helper.

He then explained that he would also offer and negotiate a compensation plan to avoid allowing the MDW to remain in his house while pregnant.

“ Once she has returned to her home, and no longer needs to work, she can consider being compensated half of the original monthly salary until the end of the contract.

Henry’s interpretations of how to provide maternity leave are not in accordance with the requirements and guidance set out in the Employer Handbook (Labour Department, 2024a), in which maternity leave pay is specified, as is resumption of work upon completion of leave.

Henry is not unsympathetic to a pregnant MDW’s circumstances and willing to think of forms of compensation—albeit on terms he decides—for the remainder of the contract he will not allow her to complete. His statements and intended actions amount to forms of pregnancy discrimination as outlined in the Equal Opportunity Commission’s (EOC)<sup>12</sup> “What is Pregnancy Discrimination?” webpage (n.d).<sup>12</sup>

Made to return home upon disclosing her pregnancy, the MDW would not be able to continue working or access prenatal healthcare within the public system. She would also be precluded for contract renewal based exclusively on her work performance.

Henry’s knowledge gap of MDW maternity protections emerges to challenge his compliance with labour regulations, and initial purported support of their rights. His “exchange of hearts” management philosophy morphs into unilateral modalities to remove the pregnancy from his home, and send the MDW back to the origin country. His empathy for MDW pregnancy exists conditionally—within household priorities—revealing its inherent limitations.

## INSIGHT

Henry’s responses show how important FDH labour regulations are for establishing universally fair and non-discriminatory working standards for MDWs. These can neutralise power imbalances embedded in MDW-employer relationships.

Henry initially stated he believed MDWs in Hong Kong should have maternity protections. His methodical approach to removing a pregnant worker, however, belies value judgements that expose cracks in his self-described empathetic management philosophy.

He acknowledges legal requirements alongside an unwillingness to adhere to regulations, and comes up with a financial solution that he calculates is fair to the MDW. The implications of his intended actions on his MDW’s healthcare rights and job security remain invisible to him.

## Henry Avoids Providing Maternity Leave

	Acknowledges MDW pregnancy	Finds a work-around	Inquires about the MDW’s plans	Devises a compensation plan
<b>Goals</b>	Remove pregnant MDW from home.	Withhold tasks from MDW.	Send MDW home.	Send MDW home.
<b>Feelings</b>				
<b>Challenges</b>	Theoretically believes in MDW MP and ML.	Doesn’t want pregnant MDW working in home.	MDW’s ‘unwillingness’ to exit home.	Interpretation of contract termination.
<b>Motivations</b>	Believes employers have rights too.	Circumvent MP regulation.	Orchestrate contract termination or resignation.	Execute ‘permanent leave’ plan.

<sup>12</sup> The EOC is a statutory body that investigates discrimination cases in Hong Kong on the grounds of pregnancy, sex, and family status among other areas.

# NO ROOM FOR LAW



## Daisy Finance Professional

Daisy, a new mum, navigates the challenges of first-time parenthood and balancing professional life. The flat she and her spouse can afford is small, but they manage to make it work. They share the master bedroom, while their MDW lives in the second bedroom with the 4-month-old baby. This is the only option Daisy has for housing a live-in worker, and it is also a practical arrangement allowing for convenient childcare. Her experience employing an MDW for newborn care illuminates the spatial limitations in many Hong Kong homes.

**Age:** 33 Years Old **Income:** \$100k (HKD / month)

**Appartment size:** 500sq ft **Number of people:** 3

**1 MDW FOR:**

At the start of her interview Daisy said she believed employers do not need to house MDWs if they become pregnant. But during the scenario exercise, she realised:

“There’s no choice. If that’s the legal responsibility, then we just have to do [as required], but I don’t feel comfortable.”

Unsure of what to do if her MDW notified her of pregnancy and unprepared for the legal responsibility to maintain the live-in rule, she said:

“I think I will be very stressed, because I’m not sure how I can manage the legal requirements in Hong Kong. I would have to check the standard practices to know how I can work within them.”

Daisy said she was willing to make workload adjustments for a pregnant MDW, but others, for physical comfort, would be impossible. Her MDW would need to continue living with the baby .

“We only have two bedrooms, so she shares with the baby. There is no other room.”

When she learned that if her MDW chooses delivery in Hong Kong, she would be required to continue housing her—during maternity leave—she said:

“That’s really interesting, I’m not aware of that.”

Daisy said she preferred for her MDW to deliver in the origin country, as she weighed turning to family for childcare or hiring a part-time LDW.

“I think that’s probably a happy situation so that she can take care of herself with her family back in the Philippines.”

When she was reminded that it is an MDW’s legal right to deliver in Hong Kong, she responded:

“I think my decision is to just follow the law. If I need to support her by law, then I will do that.”

Then, Daisy was presented with an option she was unaware of: if the MDW returns from hospital to the employer’s house with her newborn to spend the remainder of maternity leave, the employer has no legal responsibility to house the baby. Daisy explained that she would initiate conversation with

her MDW—given the legal loophole—despite awareness that this could separate mother and child.

“Yeah, I think I would further discuss with her to make sure of her plan. I hope this never happens, but if I don’t have the responsibility to take care of her baby and the baby is not allowed to stay in our home, maybe that will be more convincing for the helper to go back to her home country.”

By emphasizing the future possibility of the MDW’s separation from her baby, Daisy hesitatingly intends to convince her to return home for delivery. She positions herself as caring for the MDW and newborn’s wellbeing, although she would be enforcing their separation. She further considered the logistics of the legal loophole:

“It doesn’t make sense: you separate the baby and nobody takes care of her baby, as the MDW is the only one who can stay in our home.”

Despite discomfort with the implications of a favourable outcome for her household, Daisy rationalises that since the MDW will face separation from her baby if she gives birth in Hong Kong, returning home for the delivery will be the best choice to avoid such hardship.

## INSIGHT

Daisy’s responses underscore the need to examine how the live-in rule compounds spatial constraints in small apartments (Carnay & Au, 2017; Cheung, 2021, 2023) impacting an employer’s ability to maintain health and safety standards when employing and housing a pregnant MDW. How does this reality open pathways to leveraging the no-dependents rule to avoid providing maternity leave?

Daisy initially expresses her intention to follow the law and provide maternity protections - once made aware of these requirements. The provision of maternity leave, however, compounds the effects of the live-in rule, clashing with the realities of living in a small home: there is no space for both a postpartum MDW and her newborn - and no one to take care of Daisy’s baby. Consequently, when it is revealed there is a legal loophole in favour of the employer, thinking of her care needs and household limitations Daisy seeks to anchor coercive communication tactics.

## Daisy Attempts to Follow the Law

	As stipulated	Reluctantly	To her advantage	Unhappily
Goals	Provide MP: refrain from terminating contract, continue housing MDW. <sup>13</sup>	Support MDW’s HK delivery plan.	‘Double confirm’ MDW’s plan for HK delivery.	Convince MDW to return home for delivery.
Feelings				
Challenges	Pregnant MDW must continue living in baby’s room.	Prefers if MDW returns home for delivery.	Pregnant MDW on leave/not on duty, living in baby’s room.	Feels ethically compromised.
Motivations	“No choice” but to follow the law.	To “just follow the laws.”	Learns of legal loopholes supporting employers.	Available opportunities for indirect intimidation of child separation.



## DID YOU KNOW?

According to current regulations, if an MDW chooses to deliver her baby and spend maternity leave in Hong Kong, the live-in requirement is applicable throughout the entire period of employment. However, employers are not obligated to provide accommodation to an MDW's newborn baby. Legal analysts explain that parallel immigration regulations, underscored by the terms of the SEC, can come into competition.



Employers can enforce both the live-in and no-dependants rules at once.



## How does this create a legal loophole?

In effect, employers can compel an MDW on maternity leave to live-in as a condition of stay and eventual return to work, while refusing to allow the baby in their home—forcing the MDW into making an impossible choice (Palmer & Tan, 2022). PathFinders casework shows that in such situations MDWs often have to navigate their employers' ability to leverage the law, rendering their maternity leave in Hong Kong unworkable.<sup>14,15</sup>

<sup>12</sup> Legal analysts explain that parties may negotiate a resignation due to pregnancy, provided the MDW receives a favourable settlement (e.g. remaining wages) and statutory benefits (e.g. long service payment, if accrued.) The agreement to terminate the contract should not involve coercion and truly be a shared choice. If coercion occurs, however, or the MDW does not receive demonstrably favorable terms, she may claim constructive dismissal, and argue that the dismissal violates her maternity protection under the EO. That said, PathFinders caseworkers also assist pregnant clients who voluntarily end their contracts because they want to go home to prioritise parenting. For others, the boundaries may be blurred and the choice to end the contract is influenced by their employers. One MDW initially did not want to resign at her employer's request when she notified them of pregnancy. However, she was offered the rest of her salary covering the remaining three quarters of her contract and long service payment of several years. As the conditions were favourable, she agreed.

<sup>13</sup> See footnote 4 on page 9.

<sup>14</sup> Legal analysts explain that an employer's contractual obligation under the SEC is only to house the MDW—not her family. Therefore an employer is within their rights to choose not to allow the newborn child to live in their home. The live-in rule interpreted as an MDW's housing right does not extend to her newborn. Additionally, an employer volunteering to house the baby without a visa could even be seen as aiding the breach of conditions of stay. This lattice of legal implications make it unclear how an MDW could comply with the live-in rule postpartum without external accommodation and care for her newborn.

<sup>15</sup> PathFinders caseworkers explain that employers use the language in the SEC as a guide to manage an MDW pregnancy. Since it obliges them to house only the MDW, they may state upfront, as Reyna's employer did, that they will not house the newborn. In such cases, the Medical Social Worker may arrange for the baby to remain in hospital for about two weeks, while the mother secures travel documentation to return home to settle her newborn with family during maternity leave and later return for work. In contrast, caseworkers also observe instances in which employers informally allow the MDW to temporarily 'live-out' with a friend or partner during and following leave, so she can balance work duties and infant care. This arrangement allows the household to manage spatial limitations, while both parties negotiate the resumption of the contract. However, when families are unwilling to accept an MDW's change in circumstances or are unable to look after her child, caseworkers observe that MDWs find themselves out of options for keeping their jobs and managing childcare. They may then consider remaining in Hong Kong irregularly and applying for social welfare assistance.

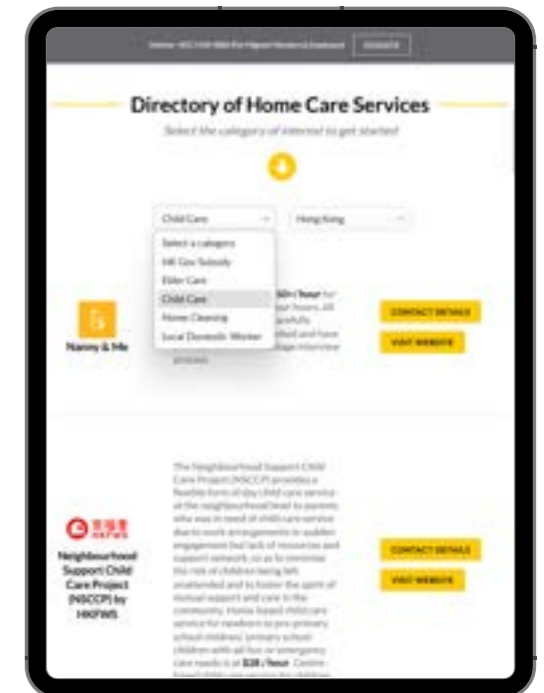
## Are you an employer whose MDW is pregnant and need advice?



Scroll to our Directory of Home Care Services and select the category of interest →

Visit our dedicated page [pathfinders.org.hk/get-help/employer](https://pathfinders.org.hk/get-help/employer) or scan the below:

SCAN ME! to visit our employers page



← Access our practical resources and downloads for more information and support



Visit the FAQ section and gain answers to questions you may have quickly and easily →



# 04

## CONCLUSION

### Employer conversation across MDW pregnancy scenarios



Informing Mary, Kelly, Henry, and Daisy of their legal obligations did not produce responses in which they readily agreed to follow the law to ensure MDWs received maternity protections, healthcare, and job security.

In quite the opposite move, they explained how they disagreed with MDW pregnancy, but would follow the law only because this is a requirement.

Learning the MDW would deliver in Hong Kong made them feel the situation was even harder to manage.

They explained how a pregnancy would further strain their paid child and eldercare needs that were previously handled by the MDW. This expanded into sharing what they might do to evade providing maternity leave to circumvent interruptions to household routine.

Finally, they expressed relief to learn of legal loopholes and considered the advantages of using these to coerce a resignation.

In this thought process, the MDW recedes from their minds as the carer they describe as looking after their children, elderly, and home. She becomes a problem they feel should not be in their homes who needs to be removed.

### Scenario 1 Results

#### Employers assume the MDW will deliver in the home country

- In the first scenario, participant responses to an MDW's pregnancy announcement were predominantly shaped by household-centric priorities. The MDW's upcoming absence due to maternity leave was a major point of anxiety.
- The employers were unclear about how to continue to assign work duties, nor were they inclined to provide leave—though they had been made aware this was a legal requirement—and assumed their MDW would go home as a natural course of action or indicated they would coerce her into doing so.
- Ultimately, they wanted the pregnant MDW out of their home, and to find a replacement worker to take over her duties. They expressed relief once they communicated solutions feasible to their household—until they were reminded of the legal constrictions to the execution of their proposed decision-making.

### Scenario 2 Results

#### Employers learn the MDW will deliver in Hong Kong

In the second scenario the pressure intensifies when respondents were asked what they would do if their MDW chose to spend maternity leave in Hong Kong, and were reminded of their duty to continue housing her.

- Responses ranged from initial surprise at their legal obligations, to continued stress over sustaining their household routine.
- The respondents were not open to legally available options or providing maternity leave and maintaining household function, including hiring an additional MDW on a two-year contract or part-time help. These exceeded their financial capacity and the spatial limitations of their homes, and ultimately was not how they wanted to manage their households.
- While they found the prohibition of dependents anathema to newborn care and bonding, Daisy, Mary, and Henry were willing to use it to facilitate their MDW's exit, while Kelly—most strongly opposed—did not provide a clear answer.

# 05 POLICY GAP ANALYSIS & RECOMMENDATIONS

PathFinders has developed the following recommendations to support employers with managing MDW maternity leave. These further examine employer responses to handling a hypothetical MDW pregnancy and situate them within an analysis of Hong Kong domestic labour migration. We highlight the importance of filling policy and practice gaps and the potential this has for increasing MDW job security, maternity healthcare, and parenting rights.



1



## Enhancing employer knowledge of MDW maternity protections

### Recommendation

Mandatory Labour Department-training for employers on MDW maternity rights

Legal and practical information for the management and fair treatment of MDWs, in accordance with the EO and the Standard Employment Contract (SEC), is largely available online on the Labour Department’s “Foreign Domestic Helpers” webpage (2025b), where the Employer and FDH Handbooks can be found. Unlike countries such as Singapore, however, training is not mandated as a condition for first-time hiring of an MDW (MOM, 2025).

Mary explained that she hired her current MDW directly upon the recommendation of her previous worker and previously used an employment agency. She did not learn about MDW maternity protections or employer legal obligations in either instance.

Although there is written information on MDW maternity protections in the Employer Handbook (Labour Department, 2024a), it is largely a general explanation of eligibility for leave, including pay and duration, and penalties for failure to comply. Step-by-step practical guidelines for how maternity protections and leave can be provided in domestic settings are absent, and employers do not get the chance to learn and understand the full extent of their responsibilities.

Kelly believed pregnant MDWs cannot work and saw this as an indicator that they should not be pregnant in Hong Kong. While she indicated awareness of legal obligations, she emphasised that her household remained top of mind, that she would not know what to do if her MDW told her she is pregnant, and refrained from answering the



question. Daisy said she would follow the law but only because she had no choice. In contrast, Henry had a plan to withhold assigning his MDW tasks and begin to persuade her to return home.

Fundamentally, employers must know they cannot dismiss an MDW due to pregnancy, and how to continue employing her while providing maternity protections. It is important to substantiate this understanding from a gender, and healthcare equality framework (Addati et. al., 2022), so employers can reflect on and value its purpose.

PathFinders recommends that the Hong Kong Labour Department introduce and mandate training for employers of MDWs, including the provision of maternity protections covered in the next section.

“ I think the government has to increase the awareness of domestic helper pregnancy and how to handle it from an employer’s side.





## Guidance and practical support for employers managing MDW pregnancies

### Recommendation

Develop MDW maternity protections training for employers

If her MDW became pregnant, Mary said one of her biggest concerns would be understanding the healthcare responsibilities she would be obligated to assume. The excerpt from her interview (p.31) provides insight into how Mary's uncertainty about her responsibilities grows as she imagines urgent situations arising.

The Employer Handbook (Labour Department, 2024a) states that employers must provide free medical treatment to MDWs and that they must provide paid sick leave (where accrued) for pregnancy check-ups. Employers are not required to cover pregnancy related medical fees, though this is not explicated. Similarly, it is not mentioned whether an MDW taking her maternity leave at the employer's home is entitled to meals, which are otherwise mandated as part of employment.<sup>16</sup>

Mary's lack of clarity about what she is responsible for—from how to assign work while being mindful of her MDW's wellbeing to whether she must cover hospital fees—reflects information gaps in Labour Department literature on how to practically carry out maternity protections. Kelly similarly said such information is needed because employers will be “stressed” and “just lost” trying to figure out how to navigate an MDW pregnancy.

The Employer Handbook (Labour Department, 2024a) contains a section advising employers on how to get along with their MDW, which acknowledges that both “live under the same roof” (p. 45). It explains

how to treat an MDW humanely, professionally and ensure their wellbeing—supplementing basic legal requirements. The Handbook also directs employers and MDWs to EOC guidance on preventing race discrimination and sexual harassment in domestic settings (see p. 47-48). To PathFinders' knowledge no similar materials are provided on pregnancy discrimination.

**Guidelines and training are needed for employers to know how to provide MDW maternity protections that continue to meet health, safety, and living standards (UN, 2022). This is important for ensuring a dignified pregnancy that is respectful of an MDW's ability to work, and concurrently mindful of her wellbeing.**

Employers knowing how to provide maternity protections can help ensure that care for an MDW's pregnancy is not superseded by worry of possible healthcare and legal liabilities and that pregnancy does not become the plotting ground for later depriving an MDW of maternity leave.

PathFinders recommends the development of a maternity protections training manual and sessions for employers. It can cover topics such as how to conduct fair and ethical conversations with MDWs about continued work while pregnant, sick leave for prenatal checkups, planning for maternity leave, and, when needed, legally negotiating resignations that fulfill statutory rights (see footnote 12, p. 24). It can be developed in partnership with stakeholders including MDW legal justice organisations, the EOC, ethical employment agencies, and the Labour Department.



<sup>16</sup> The Labour Department explained in email correspondence that free food and the food allowance are not considered wages under the EO, and by extension are not part of maternity leave pay. However, it also said that if the food allowance were to be considered part of wages, then the amount would be part of statutory entitlements and in a dispute on the matter a court would decide.

<sup>17</sup> While the EO prohibits contract termination beginning with the date of an MDW's notification of pregnancy to her employer until the date of return to work and expiry of the maternity leave period (Labour Department, 2025a), dismissals that take place due to pregnancy following the resumption of duties can be challenged under the Sex Discrimination Ordinance (EOC, n.d.).

## Mary worries about how to respond her MDW's pregnancy



“I don't know the law, so how do I have to respond?”

“Maybe, during an office meeting, I'm worried my helper is at home about to deliver.”

“It's like I have no clue about it. I don't have the answers. I will feel nervous. Every employer will feel nervous, right?”

“Should I call 999, or should I send her to the hospital? Do I have to [cover the]expenses?”

“I need her to take care of me [my household]. At that time, I would tell her, 'I'm not sure if I can take care [of you],' because I will be very panicked. And then they [pregnant women] cannot do a lot of heavy jobs. Sometimes, daily cleaning is not a heavy job, but walking the dog, going to market and carrying the groceries is quite heavy work.”

You need to climb up and down. When you are pregnant, I would prefer you not to because what if you slip? Yeah, then there's responsibility around that as well.

“As a human, I will feel guilty, because an accident made you lose your baby.”

“I think we will sit down, and we will say, here's the situation: you got pregnant, I have to work, we have to have a mutual agreement. Because of your pregnancy, we don't want any accidents. I think I would tell her what I don't want her to do because I don't want anything to happen. I will ask about her expectations as well—what does she want? What is she able to do during the pregnancy period? Yeah, we can come up with a solution.”



## Removal of FDH ML policy gaps

### Recommendation

Improve official guidance for employers providing MDW maternity leave



If her MDW wanted to deliver in Hong Kong, Daisy said she would persuade her—however reluctantly—to return home, by cautioning that she will not house the newborn.

Henry admitted it was preferable if his pregnant MDW volunteered to return home, but that he was willing to break the law and send her back.

Mary assumed an MDW returning home for delivery would automatically end the contract. When reminded to the contrary, she believed she could communicate the challenges of continuing to employ her—and that these would be understood and accepted.

The Employer Handbook (Labour Department, 2024a) provides “tips” for arranging MDW maternity leave in the origin country, stating that if the MDW “wishes” to return home for delivery “both parties can discuss the relevant arrangement” (p. 35).

The corresponding handbook for MDWs (Labour Department, 2024b) specifies that “she may make such a request to the employer” (p. 47). Both documents note that the MDW may “resume duty,” upon completion of maternity leave.

**In contrast to the respondents’ assumption that a pregnant MDW’s return home signified an end to the contract, caseworkers said employers realise this tactic is illegal, and instead may schedule termination to take place after the completion of maternity leave.<sup>17</sup> In PathFinders’ view, both inclinations suggest the formal Labour Department advice can be improved to prevent possible household-centric interpretations of providing maternity leave overseas.**

The tips also elaborate that MDWs and employers can agree on an earlier departure than the stipulated two to four weeks (Labour Department, 2024a, 2024b) before the expected delivery date. That the latter is mandatory is not stated, rather obscuring protections available to the MDW. A flexible timeline to take maternity leave is crucial to MDWs returning home for delivery as most airlines prohibit pregnant women from flying at 36 weeks of gestation.

Delivering in the home country and settling their newborn with family is one way MDWs at PathFinders consider retaining job security due to the lack of legal childcare options in Hong Kong. Caseworkers advise MDWs who want to take maternity leave in the origin country to negotiate an earlier start date and combine annual leave, or request unpaid leave, so they have adequate time for postpartum recovery and to settle their infant with family.

**In practice, however, an MDW may lose the right to express her preferences during a maternity leave conversation. At PathFinders, pregnant clients, such as Reyna, tell us of employers wishing to set maternity leave dates earlier, to coincide with vacations. This imposition can interfere with allocated time required for postpartum recovery.**

**This report has shed light on how mothers in the context of Hong Kong labour migration may not have equal access to job security, reproductive healthcare, and providing their newborns with nurturing care for human development (ILO, 2015; Loganathan et al., 2020; UN, 2022).**

Daisy’s willingness to exploit the gap between the live-in and no-dependents rules to facilitate a smooth transition for her household—despite the employment loss and childcare consequences for the MDW—point to a need for an ethical review of the ways in which FDH regulations detract from equal women’s and children’s rights in Hong Kong.<sup>19,20</sup>

Guidelines for how to arrange overseas maternity leave may alleviate employers’ sense of burden and remove the pregnancy from their home as the delivery date approaches. Simultaneously, the MDW and her baby would receive proper care in the origin country, without the emotional stress of wondering how she will house her newborn if the employer does not volunteer to help.



**FDH Handbook “tips” for managing MDW maternity leave.**  
(Labour Department, 2024b, p. 47).<sup>18</sup>

**Q:** Apart from the above requirements, how should employers deal with pregnancy of FDHs?

**A:** No other maternity arrangement in respect of FDHs is stated in the EO and the SEC. Employers and FDHs are advised to discuss the maternity leave arrangement as soon as possible in order to reach an agreement on it. If an FDH wishes to return to her place of origin to give birth and take maternity leave, both parties can discuss the relevant arrangement and may allow the FDH to take leave other than her maternity leave (if applicable) before 36 weeks of pregnancy, so that she and her baby may have the support from her family and friends in her home country, and the FDH may resume duty upon the expiry of her ML.

## PathFinders suggests the Labour Department additionally regulate maternity leave arrangements outside of Hong Kong.

The regulation should cover and specify:

- |   |  |
|---|--|
| <p><b>01 LEAVE</b></p> <ul style="list-style-type: none"> <li>• At the MDW’s request, leave may commence at least 4 weeks before the expected delivery date</li> <li>• Payment arrangements for maternity, and additional leave (if applicable)</li> </ul>  | <p><b>02 TEMPORARY WORKERS</b></p> <p>Guidance for employers seeking a temporary worker during their MDW’s absence</p> |
| <p><b>03 CONTRACT CONTINUITY</b></p> <ul style="list-style-type: none"> <li>• Employers refrain from terminating contracts—including emphasis that this is a labour violation</li> <li>• The MDW may resume work after the leave period, and that contract termination “upon return from maternity leave without justifiable causes” (EOC, n.d.) can be investigated under the Sex, and Family Discrimination Ordinances</li> </ul> |  |

<sup>18</sup> The language in the tips passage strives for shared decision-making between employer and MDW, including emphasis on the MDW’s humanitarian needs. The minimum protections available to the MDW, however, remain in the backdrop. The legal provision to take maternity leave four weeks ahead of the expected delivery date is noted as a given in the tips section. An MDW’s autonomy to do so despite an employer’s lack of cooperation is stated earlier, replicating a passage from “A Concise Guide to the Employment Ordinance” (Labour Department, 2025a): “If an FDH...fails to secure her employer’s agreement to her proposed leave schedule, she shall commence her maternity leave four weeks before the expected date of confinement.” While this study did not explore whether employer misunderstandings originate from government literature, it would be useful to make written guidelines clearer as respondents expressed knowledge gaps.



## Promoting MDW ML insurance and temporary replacement work

### Recommendation

PathFinders partners with insurance companies and LDW agencies to explore creating an MDW maternity leave rider

Following the scenario exercises, the interviewees reflected on the possibility of an insurance rider helping with household management during MDW maternity leave, and suggested improvements to the FDH system.

Respondents did not necessarily feel maternity leave payments imposed financial constraints, but also felt the payout would not justify the cost of the premium. Their reservations were related to the primary need for a replacement worker as they did not believe they could independently manage their households for a 14-week period.

Yet, they were not in favour of hiring an additional MDW on a two-year contract. Daisy and Mary did not have space to house two MDWs, and along with Kelly were concerned about managing multiple workers. They foresaw complicated dynamics emerging in which the new worker would be expected to look after the first pregnant worker. They did not see hiring an additional worker as a genuine long-term household need, but only as a response to the pregnancy.

Limited legal and financially viable options for providing maternity leave while temporarily covering the MDW's absence signals the need for nonprofits to ideate, collaborate, and advocate for cross-sector solutions that improve employer participation in labour migration and remove barriers to MDW employment and reproductive healthcare equity.



## Kelly's thoughts on hiring a second MDW

“Having one helper in my head is already, I mean, it's just nice. Having two helpers in the house, it's terrible, right?”

“I can tell you, I think the helper who's not pregnant, she'll be pissed off, right? What do I do with a second helper, assuming I hire her full-time? Do I fire her [the first MDW]? You know what I'm saying, right?”

“It's so unfair as well for the second helper. First of all, she has to look after not just us, but also the pregnant domestic helper. Then once the pregnant domestic helper is done giving birth and comes back, I don't need two. What do I do? Do I fire her [the first MDW]? Then they [the second MDW] will also wonder what would happen to her after the first helper is done giving birth.”

“It's just not fair. It's, as I said, a ridiculous situation.”

Existing insurance products in Hong Kong cover MDW medical costs and inability to perform duties due to illness and injury. However, to PathFinders' knowledge, all but two<sup>21</sup> exclude pregnancy as a cause of absence. Daisy said such a scheme would be helpful as she and her partner could manage childcare, while the part-time LDW could complete housework.

“We would not be familiar with the part-time helper. Given the urgency it's difficult to find someone we can trust. I think for housework, it's okay. It can be manageable during our weekend.”



Mary cited the importance of a regulatory framework requiring insurance companies to create such a product, as she herself did not get pregnancy coverage from her workplace. When Henry eventually acknowledged that he was required to provide maternity leave, he said he would “definitely” buy such a product as “even a little help is help.”

“I will be very stressed, even if she doesn't work while residing at my home wages must still be paid. Her work is primarily taking care of my mother-in-law during the evening hours. My wife and I can handle things during the daytime.”



A temporary live-out worker is the most legally, financially, and ethically feasible option for providing maternity leave and maintaining household function. As Kelly rightly pointed out, hiring a second worker also introduced redundancy and employment precarity for one or the other worker. A maternity leave cover package could provide employers with a viable alternative for hiring a temporary replacement worker while ensuring the continuity of the primary MDW's contract.<sup>22</sup>

While insurance protection for an MDW pregnancy would entail the purchase of a more costly product, this could be a feasible option for employers to provide MDW maternity leave at less inconvenience. At the same time, it would enable the MDW's access to maternity leave.

## PathFinders proposes cross-sector collaboration for the creation of:

- 01 AN INSURANCE RIDER:**  
to cover the cost of maternity leave payments
- 02 MATERNITY LEAVE COVER PACKAGES**  
developed by LDW agencies, also covered by insurance



<sup>19</sup> Working mothers in the professional sector in Hong Kong do not have to choose between employment and living with their children. Therefore, the conjoinment of the live-in and no-dependents policy and its disproportionate impact on MDWs who are mothers could theoretically be legally challenged on the basis of pregnancy, sex, and family status discrimination. However, the SEC and immigration regulations are likely to override such challenges, as the employer is contractually obliged only to house the MDW, MDWs are precluded from accompaniment by dependent children, and the MDW is required to fulfil her work duties in accordance with these terms.

<sup>20</sup> Under Hong Kong's implementation of the UN Convention on the Rights of the Child, all children—including those of MDWs—have fundamental rights to birth registration, healthcare, and education (Mother's Choice, n.d.). However, when newborns of MDWs receive permits to remain in Hong Kong tied to their mother's visa, their access to social welfare is undercut because of their exclusion from the live-in rule, unless the MDW and her employer reach an informal agreement about housing and childcare.

<sup>21</sup> See Prudential's PRUChoice Maid Insurance and Generali's Domestic Helper Insurance.

<sup>22</sup> Though an employer may not dismiss an MDW due to pregnancy or childbirth, termination may later take place under “redundancy” claims following the completion of maternity leave. PathFinders has documented cases in which MDWs are fired after the hiring of a replacement and are unable to prove the dismissal is pregnancy-related due to delayed timing. This happens despite the existence of legal redress mechanisms which, legal analysts explain, place the burden of proving the dismissal is non-discriminatory on the employer.

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# OUR STRATEGY

At PathFinders we believe with imagination, collaboration and a commitment to strengthening protections for the children we serve, practical and affordable solutions can be found, ensuring fewer migrant mothers and children fall into crisis.

Our strategy brings together three core programmes - Crisis Intervention, Crisis Prevention and Systemic Change - that are highly integrated and constantly reinforce each other. For instance, the more crises that are prevented, the fewer crises require intervention. Alternatively, the more awareness raised among employers about MDW maternity rights, the fewer expecting mothers will be left unsupported, unemployed, and in crisis.

# OUR CONTEXT

## Crisis Intervention Bridging the gap

Established in 2008 on the belief no child should be born alone and deprived of an identity, basic supplies, healthcare and shelter, PathFinders has touched the lives of over 11,500 babies, children and women. Despite legal protections, every year hundreds of expectant Migrant Domestic Worker (MDW) mothers are unlawfully fired, pressured to leave or resign because they, and their employers, simply don't know what else to do. When this happens, the MDW immediately becomes homeless and within two weeks, when her working visa expires, she loses access to public services, including healthcare vital for prenatal screening and newborn care. For those unable to return home, their children are typically undocumented, and lack access to essential services including healthcare, shelter and education.



## Crisis Prevention Addressing the root of the problem

Given limited care options for children and the elderly, MDWs have become a critical source of support for many households in Hong Kong. Hiring an MDW enables many dual income households and thousands of women to be included in the workforce. Hong Kong currently employs more than 360,000 MDWs. Many are women of childbearing age and lack access to reproductive knowledge and services. Often social and cultural norms in their home countries don't encourage comprehensive sexual and reproductive health education and/or gender equality. There is also a widely held misconception that all children born in Hong Kong will receive permanent residency.

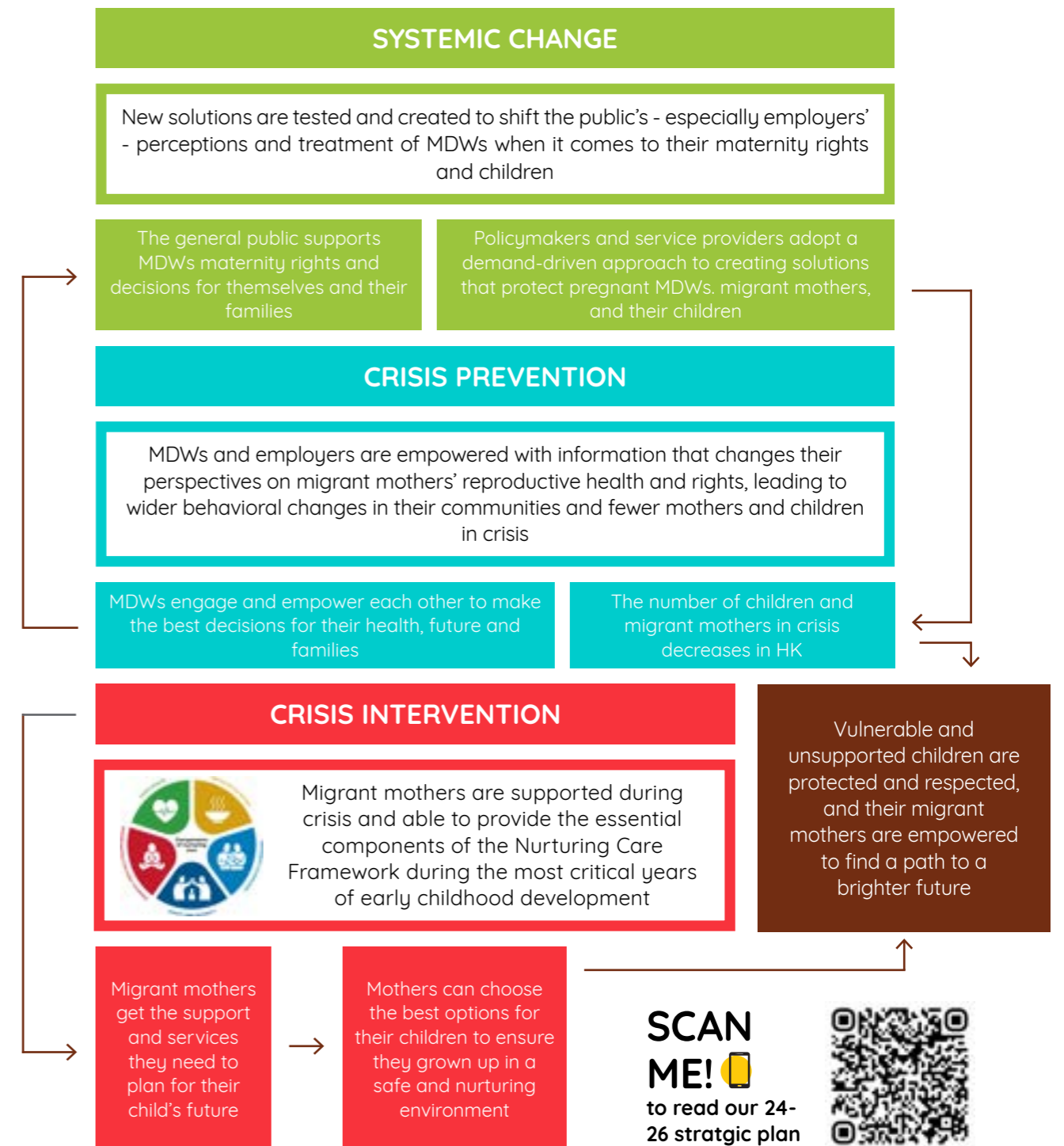


## Systemic Change Driving solutions for long-term change

All working women in Hong Kong are entitled to 14 weeks of maternity leave. By maintaining employment, a pregnant MDW is able to access public services and healthcare vital for prenatal screening and newborn care. In addition, she is able to benefit from sufficient time to nurture and settle her child with family in her home country, before returning to work to provide for her child's future. The number of MDWs working in Hong Kong is predicted to rise to over 600,000 by 2047 to care for the city's rapidly ageing population. We fear that without solutions that support an employer's ability to provide maternity protection while maintaining their household needs, MDWs and their children remain at risk of becoming unemployed and made homeless.



# OUR THEORY OF CHANGE





All  
Children  
Matter

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