

**Written evidence submitted by Maternity Action [GRA0048]**

Dear Caroline and Alex,

Further to my email of 30 November, about BEIS minister Paul Scully's evidence in relation to Maria Miller's Pregnancy & Maternity (Redundancy Protection) Bill during your Committee's oral evidence session on 4 November, I am writing to comment on Minister Scully's evidence in relation to the greatly increased backlog of employment tribunal claims/cases since the onset of the Covid19 pandemic.

In response to Q178 by Alex Davies-Jones about what discussions Ministers have had to "ensure that the tribunal system provides effective and timely redress for victims of discrimination", Minister Scully stated:

"We do speak to the Ministry of Justice on tribunals for any number of reasons in the wider piece. As I say, that is why tribunals are allowed to take out-of-time applications to make sure that they can take on more and address more cases as well. We have put in an £80 million boost for the tribunal service to be able to meet the unprecedented challenge as well. The tribunal service published a vulnerability action plan to enable vulnerable people to better access the justice system. We are also recruiting a further 75 employment tribunal judges, so that they can be deployed over the next year to help reduce the delays and deliver justice. All of these [measures] show that we understand the pressures on the tribunal system."

In fact, that £80 million funding boost – [announced](#) by the justice secretary on 6 September as an "£80m plan for criminal courts [*sic*] to recover from [the] pandemic" – covers not just tribunals, but also the criminal and civil courts. On 6 December, in answer to [a written parliamentary question](#) by Alex Davies-Jones, justice minister Chris Philp indicated that only £3.4m (4%) of the £80m is going directly to the *tribunal* service, which of course includes social security and immigration tribunals as well as employment tribunals. And, today, in answer to [a further written parliamentary question](#) by Alex Davies-Jones, Minister Philp stated that "very little of the [£80m] spend is directly attributable to a single tribunal".

The employment tribunal system's budget for 2020/21 is £71m. So, it is hard to see how a part-share of just £3.4m will be sufficient to first stem and then reverse a 40% increase in the backlog of cases since mid-March, while at the same time dealing with a substantial increase in the number of new claims.

On 3 December, in [an oral statement](#) on his recovery plan for courts and tribunals, the justice secretary stated that "employment tribunals have succeeded in returning to pre-Covid levels of hearings, primarily through the use of online proceedings". And, on 8 December, in answer to [an oral question](#) by Seema Malhotra MP, Minister Philp stated that "since the beginning of October, disposal rates in the employment tribunals have been running at 740 a week. That is higher than the level of disposals pre-pandemic, which was 718 a week. We hope and expect that that recovery will continue."

As can be seen from the following table, which is based on the 10 December update of the weekly HMCTS management information cited by Minister Philp, it is broadly true that the rate of disposal of single ET claims/cases has returned to the pre-pandemic level. However, that is not sufficient as, since March, the rate of *new* single claims/cases has increased steadily, and is now 29% higher than the pre-pandemic baseline (841 per week).

			<b>Increase in backlog</b>
<b>New claims</b>	<b>Disposals</b>		

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04-Oct	921	780	141
11-Oct	1,047	736	311
18-Oct	1,118	775	343
25-Oct	1,023	670	353
<b>average</b>	<b>1,027</b>	<b>740</b>	
<b>total</b>			<b>1148</b>
01-Nov	1,044	696	348
08-Nov	1,071	661	410
15-Nov	1,158	631	527
22-Nov	1,070	803	267
<b>average</b>	<b>1,086</b>	<b>698</b>	
<b>total</b>			<b>1552</b>

As a result, the backlog of some 42,000 single claims/cases is currently growing at a rate of more than 1,600 per month. This is simply not sustainable, if the employment tribunal system is to deliver timely or indeed any justice to pregnant women and new parents who have lost wages, entitlements or their job as a result of the pandemic. And the anticipated wave of pandemic-related redundancies may well result in yet further increases in the number of new claims/cases.

In conclusion, the action taken by ministers to date does not appear adequate to address the scale of the crisis in the employment tribunal system, and so ensure that the system provides effective and timely redress.

I am copying this email to Sir Bob Neill, Chair of the Justice Committee, and to Darren Jones, Chair of the BEIS Committee.

I hope that this information is helpful to your deliberations.