

Written evidence submitted by Working Families (MRS0138)

1 Introduction

1.1 Working Families is the UK's work life balance charity. We operate an award-winning, free Legal Advice Service for working parents and carers who are experiencing unjust treatment at work or are struggling to balance work and caring and need to know more about their rights, and to better understand their options.

1.2 We estimate that the number of people getting in touch with our Legal Advice Service has increased six-fold in the wake of the COVID-19 outbreak, almost overnight. Since the middle of March 2020, close to 100% of our queries have been related to COVID-19.¹ We have used the queries that we have received to put together comprehensive online advice on COVID-19 for working parents. To date, more than 130,000 people have viewed these website pages.

1.3 In the last year, 86% of the parents and carers that contacted us were women, and maternity rights remain consistently amongst the issues we are contacted about most often. We estimate that we hear about instances of pregnancy and maternity discrimination every single day that our advice service is open, and are concerned that this already unacceptable situation could be exacerbated further by the COVID-19 pandemic. We are also concerned that the pandemic has brought some evidence of regression on gender equality at work, with women being expected to shoulder the burden of unpaid care. Overall, caring responsibilities were invisible in the government's initial economic response to the crisis.

1.4 We would be happy to provide further information or evidence to the Committee, please contact Mubeen Bhutta, Joint Head of Policy and Influencing at mubeen.bhutta@workingfamilies.org.uk.

2 COVID-19 and gender equality

2.1 Working Families has long argued that family friendly and flexible workplaces are key to achieving gender equality at work and at home. In recent years, we have identified an emerging 'fatherhood penalty' whereby fathers as well as mothers feel that they need to stall or downgrade their careers in order to meet their caring responsibilities.² While this brings its own challenges, as identified in the Committee's previous Fathers and the Workplace inquiry, it also kick started a national conversation about how families share work and care – including recognition from outgoing Prime Minister Theresa May that the UK parental leave and pay system needs urgent reform to keep up with the aspirations of today's families.³

2.2 However, we are deeply concerned that the crisis created by the COVID-19 pandemic may bring a regression on the progress that has made been made to tackle entrenched societal ideas about who works and cares. We have evidence that working mothers are being asked about being told that they cannot work and care for their children at the same time, when working fathers at the same employer are being actively encouraged to work from home..

2.3 The government has provided helpful clarity that employers can furlough staff who are practically unable to work because of their caring responsibilities, and that there does not

need to be a redundancy situation for this to take place. As a charity, our aim is always to keep parents in work, but we know that this is simply not practically possible for all families while school and childcare settings remain closed. However, we are concerned that the impact of this measure may be that it is women who are disproportionately furloughed, due to the fact that they are more likely to have caring responsibilities. This could cause financial difficulties in the short term if pay is reduced to 80%, and long term harm to women's future earnings and career progression as furloughed workers may be more likely to be selected for redundancy as the situation unfolds for UK employers. We also have clear evidence from parents who have contacted us that many employees are being refused furlough for childcare reasons even though their employer is eligible for the scheme – for these parents (most of whom are women), unpaid leave is the only option.

2.4 We understand the rationale for suspending gender pay gap reporting for this calendar year, but the government should collect data by gender on how the UK's working population has been affected by COVID-19, in order to take remedial action for any disproportionate impact on women.

2.5 Women are more likely to be in low paid work and in insecure work. In some cases, insecurity such as working on a zero hours contract is the only way that parents can get the flexibility that they need to balance work alongside caring commitments. The COVID-19 pandemic has brutally exposed the ways in which our labour market does not work for families. Insecure and low paid jobs leave parents with few options if they are sick or if their childcare breaks down. Parents working in these jobs also have fewer employment rights and are therefore more susceptible to being dismissed, losing hours, or not having their contract renewed. Poorer women risk being the hardest hit by COVID-19.

2.6 It is crucial the government drives employers toward offering secure employment contracts by reducing the tax incentives for employers to offer zero-hours and bogus self-employment contracts⁴, and by imposing significant penalties on those employers who use them inappropriately. At the same time, it must ensure all parents have access to all employment rights, regardless of whether or not they are enrolled in PAYE. As the Secretary of State remarked in her evidence to the Committee on 22 April, the pandemic has demonstrated that there is flexibility in many, many more jobs than those presently offered on a flexible basis and that flexibility leads to productivity.⁵ The forthcoming Employment Bill is a golden opportunity to embed this flexibility in the UK labour market, with a meaningful approach to making flexible working the default. The government's approach must be meaningful enough to bring about better job design, to unlock more quality, flexible and part-time jobs.

2.7 A significant majority of public sector workers are women.⁶ The government has stated that they expect the public sector to make minimal use of the retention scheme because many of these employees will be key workers and all statutory funding commitments are continuing. However, many public sector parents have contacted us because they have been told they cannot be furloughed whatever their circumstances. This has left, for example, single parents doing night shifts being told they need to come to work even through the informal childcare that they have relied upon is no longer an option. Without clarity that public sector workers who are unable to work because of their caring commitments or

because they are following public health guidance, many parents – predominantly women - are being placed in an impossible position.

3 COVID-19 and pregnancy and maternity

3.1 The government has made commitments to further action to tackle the UK's unacceptably high levels of pregnancy and maternity discrimination.⁷ However, the COVID-19 pandemic risks exacerbating this discrimination further. The government's messaging around public health requirements for pregnant employees has been confusing and unclear. In initial statements, the government implied that all pregnant women would be required to shield for 12 weeks, but subsequently it has become clear that while all pregnant women should be stringently social distancing it is only those with underlying conditions who need to be completely shielding. As a result of this initial confusing messaging, many pregnant women were immediately placed on statutory sick pay by their employers, while others were dismissed altogether.

3.2 The government directions for the Job Retention Scheme state that employees cannot be furloughed until any Statutory Sick Pay period has ended,⁸ meaning that pregnant women placed on 12 weeks sick pay as a result of the government's initial messaging are not able to be furloughed until those 12 weeks have ended. As well as putting pregnant employees at a disadvantage compared to employees who are readily eligible for furlough, this could have a knock on impact on their maternity or parental pay if they are on sick pay during the relevant period of calculation. The government has confirmed that pregnant employees who are furloughed will not be disadvantaged in calculation for parental pay but has not offered the same assurance for pregnant employees on sick pay.⁹ The government should also enable employers to curtail the sick pay period for pregnant employees who were placed on this due to this initial lack of clarity, so that they can be furloughed where appropriate.

3.3 We have clear evidence from the pregnant women who have contacted us that employers are not following their workplace health and safety obligations. Employers are required to conduct a risk assessment for all pregnant employees and to take remedial action to ensure that they have a safe place to work, or to suspend them on full pay if they cannot provide a safe place for them to work. While patchy compliance with these requirements has always been of concern, in the context of the COVID-19 pandemic the health and economic consequences could be of the utmost gravity. Pregnant women have contacted us because they are being forced to continue working in unsafe environments, because they have been dismissed as a result of refusing to attend work, and because they have been told they need to stay at home without pay. The government urgently needs to provide unambiguous guidance to employers reminding them of their health and safety obligations to provide a safe place for pregnant women to work, or to suspend them on full pay. The guidance for the job retention scheme also needs to be amended to clarify that pregnant women can be furloughed if they cannot work from home or from an environment that is as safe as their home.

3.4 The government has now confirmed that expectant parents will not lose out if their calculation for parental pay happens while they are on furlough. However, there remains a lack of clarity in the guidance about how those parents currently on parental leave will be treated, including whether they can bring their return date forward in order to benefit from furloughing, and whether new parents can be on parental leave and furlough at the same time.

4 COVID-19 and disability

4.1 As the decision to put employees on furlough rests with the employer, some employees who could be furloughed according to the circumstances stated in the guidance nevertheless won't be furloughed. Some of the parents and carers who have contacted us have not been furloughed despite the fact that they care for someone with a disability whose care arrangements are no longer in place. For people in this situation, unpaid leave is their only option. This is likely to compound poverty for both unpaid carers as well as the disabled people they care for.

5 Caring as a protected characteristic

5.1 The government did not provide any guidance or support for working parents at the time of the announcement that schools and nurseries would be closed. While subsequent income protection measures have been announced, including allowing employers to furlough staff because their caring responsibilities preclude them from working, these measures simply came too late for some parents who had already lost their jobs. Extending the list of protected characteristics in equality legislation to include caring, as other nations have done, would provide significant additional security for working parents. We urge the Committee to consider this as an area for further exploration in this inquiry.

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¹ We have detailed the range of issues that working parents and carers have been facing in during the first weeks of the Coronavirus pandemic in our recent report – [Weathering the storm: the COVID-19 pandemic and working parents](#)

² This was first identified in Working Families/Bright Horizons [Modern Families Index 2017](#), and has been a consistent finding in subsequent iterations of this research

³ <https://www.theguardian.com/commentisfree/2019/jul/18/family-fathers-paternity-leave-theresa-may>

⁴ Citizens Advice Bureau estimated the number of bogus self-employed in the UK to be just under half a million people. <https://www.citizensadvice.org.uk/cymraeg/about-us/how-citizens-advice-works/media/press-releases/bogus-self-employment-costing-millions-to-workers-and-government/>

⁵ Q14, Q22

⁶ ONS [Public sector employment by gender](#) November 2015

⁷ <https://www.equalityhumanrights.com/en/managing-pregnancy-and-maternity-workplace/pregnancy-and-maternity-discrimination-research-findings>

⁸ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/879484/200414_CJRS_DIRECTION_-_33_FINAL_Signed.pdf, para 6.3

⁹ <http://www.legislation.gov.uk/uksi/2020/450/made>