



Weathering the storm:

the COVID-19 pandemic
and working parents



About Working Families' Legal Advice Service

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.

Between April 2019 and March 2020 our Legal Advice Service provided 2,300 pieces of advice to 1,940 different parents and carers. Eighty-six per cent of the parents and carers we advised were women. Around a third of our callers were from an ethnic minority background, and a quarter were single parents. Sixteen per cent were caring for a disabled dependant. Sixty-three per cent were on a low income. The top three issues we were contacted about were work patterns and hours, maternity rights, and benefits and tax credits.

In addition to calls and emails, over one million people accessed our 200+ online articles.



Introduction

The sweeping public health safeguards introduced in March 2020 to limit the impact of the COVID-19 pandemic have been necessary. But these safeguards—in particular closing schools and childcare settings—have brought a host of knock-on effects for working parents. Estimates indicate that one in seven UK workers could have to make changes to their working arrangements to provide childcare.

As the government, employers, and families have struggled to adapt to changes in real time, we estimate that the number of people getting in touch with our Legal Advice Service quadrupled in comparison to previous months, almost overnight. Since the middle of March 2020, close to 100% of our queries have been related to COVID-19. Over 36,000 people have accessed our COVID-19 focused advice pages since they were created, comprising 42% of all our website users in this period.

We've been deeply concerned about the unwillingness of some employers to be flexible around working hours and priorities for parents following the government advice to work from home. This came to a crisis point once schools and nurseries closed on 20 March 2020. We've heard distressing stories of parents being forced to take unpaid leave or losing their jobs, bringing economic uncertainty and hardship at the worst possible time.

The Chancellor, Rt Hon Rishi Sunak MP, has made two welcome announcements about employment support and COVID-19: a Job Retention Scheme for employees and the Self-employment Income Support Scheme for the self-employed and others who aren't enrolled in PAYE. Whilst both interventions have been very helpful, there are gaps.

This year's Legal Advice Service report explores the issues still facing the working parents getting in touch with us about COVID-19, and simple ways the government and UK employers could go further to support them to stay in work and help ensure they don't lose out financially.

Working from home

The government has asked everyone to work from home where possible. But we've heard from some parents whose employers simply won't let them, even though this is practically possible for their role.

Working Families is concerned some employers aren't allowing parents to work from home because they know they will be juggling work with some childcare, and are therefore forcing them to take unpaid leave or dismissing them outright.

● **Emma got in touch because her employer is refusing to let her work from home since she is a single mum with young children and schools are closed—even though many of her colleagues are actively being encouraged to work from home. They have told her she needs to take unpaid parental leave.**

● **Martha, who works in the NHS, needs to work from home because her partner is in the vulnerable health category and her daughter's nursery has closed. Martha feels that her job can be mostly done from home and that she could even put in more hours working remotely by including evenings and weekends. She was told that she couldn't work from home or work any variation of her normal hours.**

● **Meghan and her partner work for the same company. She works afternoon shifts and her partner works morning shifts. Usually Meghan's mother looks after their baby in the time that they are switching over at work, but her mother is the vulnerable category for COVID-19 and can no longer look after the baby. Meghan asked to start work an hour later, but this request was refused.**

Policy recommendation:

We need to keep parents in work to ensure that the UK economy is in the strongest possible position during and after the pandemic, as well as to safeguard family incomes and wellbeing. Employers should take a pragmatic approach to all parents working from home, having sensible conversations with their employees about how work can be organised around their other commitments.

Parents unable to work from home

Some parents—particularly those with young children—won't be able to work from home because schools and childcare settings are closed, and because they can't rely on informal childcare due to social distancing. For others, it might be their job genuinely cannot be done from home.

● **Sian has two young children under six at home and feels she cannot work from home because her childcare has broken down. She doesn't think she'd benefit from the Job Retention Scheme because her job still exists—she just can't do it. She intends to take unpaid leave.**

● **Aisha, a key worker, has two young children. Her youngest son is under school age and her childminder has closed so he is now at home full time. Aisha has been told to offer telephone appointments to patients when working from home but practically, this is very difficult while also caring for her child. She has been told she would need to take unpaid leave if unable to work—which is not a financial option for her family.**

Policy recommendations:

Given that the government has support in place for businesses affected by closures, it now needs to turn to support for parents

affected by schools and childcare settings closing. It's important to emphasise the importance of enabling parents to work from home, retaining their link to the workplace. There is a danger that parents being 'out of sight and out of mind' will ultimately affect their return.

But this won't always be possible. Parents that have to stay at home because schools and childcare settings have closed should be protected against dismissal. Current guidance states that the Job Retention Scheme is for employers whose operations have been affected by COVID-19. The government should provide clear guidance that employers can 'furlough' employees (i.e. seek reimbursement of 80% of wages, up to £2,500 a month) who genuinely can't work from home, including parents whose childcare commitments are simply too great. Otherwise, parents will have to rely on unpaid leave and benefits.

Reduced-hours working

For some parents, their hours may have been reduced because their employer has less work for them to do. Whilst this may be welcome for some families because schools and childcare settings have closed, it will affect their earnings.

● **Kenisha, a working mum, was asked by her employer to sign a piece of paper to reduce her hours and salary as a result of COVID-19. She was concerned this would represent a permanent change to her contract and unsure about what the implications would be for her family when the economic situation returns to normal.**

Policy recommendations:

Currently, employers do not have an option to 'top up' the income of employees whose hours have been reduced to 80% of their usual earnings through the Job Retention Scheme. Although the Chancellor has made clear that employees have to be either entirely furloughed or not, we're urging the government to explore options enabling employers that need to, to re-claim monies for the hours employees aren't able to work so that those employees aren't disadvantaged compared to furloughed employees who aren't working at all.

Redundancy

Sadly, and despite the alternatives available, we're already receiving calls from parents that have been made redundant because of COVID-19.

● **Lauren is pregnant and has been made redundant (without notice) because of coronavirus. Her employer says that this is not linked to her pregnancy at all, but she is the only employee being made redundant. She is one week away from being able to claim Maternity Allowance. If she hadn't been made redundant with immediate effect, she would have qualified for Maternity Allowance, providing crucial financial help to support her new baby.**

● **Saira, a working mother, was told by her employer that she could either take redundancy and leave straight away or accept a change to her contract which meant that her hours were reduced to zero hours, resulting in zero guaranteed pay.**

Policy recommendations:

For employers, redundancy should be a last resort, but clearly more and more employers will resort to it the longer it takes to get the Job Retention Scheme up and running. Where it's necessary, employers must still use fair criteria. That means, crucially, not discriminating against employees that are pregnant or on maternity, shared parental or adoption leave, or those with a disabled child.



Social Security

Not all parents faced with unpaid leave, dismissal, or a lack of new work will benefit from the Job Retention Scheme or the Self-employment Income Support Scheme. These schemes will primarily benefit those in the most stable jobs rather than people with no guaranteed hours or those working on casual contracts. Many parents will now need to start claiming benefits.

● **Gita, who works in a café, was told she didn't need to turn up for any more shifts following the Prime Minister's announcement they should close. She's devastated she has no rights and has lost her job overnight.**

And parents already claiming Universal Credit are getting in touch with us, worried their social security support will stop because they are having to take emergency time off work to care for their children.

● **Mia is a single parent working 16 hours per week. She's going to have to take unpaid leave and is worried the benefits system will consider her not to be working and stop her support.**

Policy recommendations:

Clearly, not all employers will support parents to work at home or make use of 'furloughing'. So we're calling for a significant uplift in child benefit payments for the duration of the pandemic—for

existing and new claimants—to capture parents who have had their hours reduced, taken unpaid leave, or been dismissed as a result of COVID-19.

The two-child limit for child benefit payments, which we have long argued is arbitrary and punitive, will harm families further in the COVID-19 pandemic and should be removed permanently.

The benefit cap is now particularly unfair, given many new parents now claiming benefits will have either had their hours reduced, put on unpaid leave or been dismissed due to COVID-19. For many, it removes any increase to the Universal Credit standard allowance. Similarly, the conditionality and sanctions regime is entirely unsuitable during this crisis and should be suspended.

Parents need the five-week wait for new applicants to commence Universal Credit to be waived, and for advance payments to be an automatic grant—even if it is only an estimate of entitlement.

Statutory Sick Pay

Currently, parents practicing social distancing because they have someone vulnerable at home—but with no symptoms of COVID-19—are being forced to take unpaid leave.

● **Lisa is a single parent to two daughters. She is a key worker who can't work from home. Her 2-year-old has a heart murmur and her 8-year-old is asthmatic. She doesn't want to go into work because social distancing is very difficult, and she doesn't want to put her children into a childcare setting. She feels both increase the risk of her children being exposed to COVID-19 and her only option is unpaid leave.**

● **Geoff, an electrician in a construction company, lives with his partner who is expecting twins in early June. He is reluctant to go in to work because of the risk of contracting the virus and infecting his partner. Geoff's employer has told him that he will not pay him and may dismiss him if he does not come in to work.**

● **Shazia cares for her 23-year-old son, who requires 24-hour care for his physical and learning disabilities. She has**

been able to work as a health visitor for 22.5 hours a week because of support from her husband and carers. Shazia and her colleagues are being redeployed into the community in the current situation. Her manager is ensuring that those employees at high risk of COVID-19 are not redeployed but Shazia has been given no reassurance that she won't be required to work in the community, despite the fact that her son is in a high risk group for the virus.

Policy recommendations:

As far as possible, employers should be supporting parents to work from home. But where this isn't possible, those who need to social distance because they reside with a vulnerable person should also be entitled to Statutory Sick Pay. Where this involves the working parent of a disabled child, employers need to be mindful of the risk of indirect disability discrimination.

Pregnancy & maternity

Pregnant women have been told by the government they are high risk. We've received a raft of enquiries about this, particularly from pregnant women unable to work from home.

● **Jo is pregnant and has been told by her employer that she can't work from home—even though other employees can—because they don't have enough equipment. She was told to just 'go home and enjoy her pregnancy' instead. Jo is the only person in her company to have been furloughed, and there is clearly work that she could be doing. This is pregnancy discrimination.**

Some pregnant women have been suspended, in most cases without pay.

● **Aimee, a hairdresser, is six weeks pregnant and in the most vulnerable category for COVID-19. She's been told by her employer to stay at home, but that they won't pay her anything for it.**

Some pregnant women have been placed on Statutory Sick Pay and their earnings significantly reduced.

● **Esther is pregnant and working part-time. Her employer has told her to take 12 weeks leave on Statutory Sick Pay. This means her salary has been reduced from £1000 per month to £320 per month.**

● **Leann is pregnant and self-isolating and will be on Statutory Sick Pay during her Statutory Maternity Pay (SMP) qualifying period. She's worried her SMP will be significantly lower than it should be as a result.**

Policy recommendations:

Employers, as far as possible, must ensure pregnant women needing to self-isolate or social distance are supported to work from home. The government must make it clear that, where this isn't possible, employers should be suspending pregnant women on full pay until their maternity leave starts. This may become unaffordable for some employers—and offering pay under the Job Retention Scheme to pregnant employees not working, until their Statutory Maternity Pay kicks in, must be an option.

For many pregnant women, their period on Statutory Sick Pay or with reduced or no pay as a result of COVID-19 will fall into the eight-week period for calculating their Statutory Maternity Pay. The calculation period requirements in terms of average earnings should be suspended or, at the very least, significantly extended.





Wider issues: gender inequality

Working Families is concerned that the fact schools and childcare settings have closed means women's employment is disproportionately affected by COVID-19.

Women are continuing to take on the majority of unpaid care—and being expected by employers to take on unpaid care—which risks undoing the progress that the UK has made in closing the gender pay gap. We have seen clear evidence that working fathers are not being asked about how they will manage work and care at this time, even when working mothers are being penalised by the same employer.

Employers are putting working mothers on unpaid leave or dismissing them because of a perception about their ability to continue to work, weakening their labour market attachment and affecting their earnings. Whilst 'furloughing' employees is a far better option than unpaid leave or dismissal, all the evidence suggests it is overwhelmingly working mothers who will be put in this position. For employers to risk losing or undermining their talented female employees simply because they are parents is short-sighted and will harm their businesses in the short and long term.

There are significant challenges for working parents who now need to provide childcare and education. But this does not

automatically mean that parents are completely unable to work. So whilst taking time out must be an option for parents who can't work from home or are struggling with childcare, it's crucial that employers don't automatically 'furlough' all their working parents. Employers should take a long-term and pragmatic approach to ensure that their businesses are resilient enough to weather this storm and support the UK economy to get back on its feet. Both employers and their employees will need to do things differently in this unprecedented situation.

Policy recommendations:

Clear messaging from the government urging employers to allow working parents to work flexibly from home is needed. This could form part of the advertising campaign it will shortly be commencing. Gender Pay Gap reporting has been suspended for this calendar year, but the government should consider publishing data—by gender—on how the UK's working population has been affected by COVID-19, to encourage employers to think differently about their approach to managing their workforce through the pandemic.

Wider issues: insecure work

Adequately paid, part-time and flexible, secure jobs for parents are vital.

Insecure, low paid jobs that only pay when you can pick up shifts, leave you with no options if you get sick or if your childcare breaks down, and leave you vulnerable to being let go at will, simply don't work for families.

The coronavirus pandemic has brutally exposed this. Atypical workers—parents who work for an agency or on a zero hours contract, for example—are more likely to be negatively affected by COVID-19. But they're also more likely to fall through the gap between the Statutory Retention Pay and the Self-employed Income Support schemes.

For an employer, as highlighted by Alan Bogg and Michael Ford QC, Professors of Labour Law at the University of Bristol, 'it is easier for it to rely on its existing contractual provisions and do nothing at all. That, after all, is often the economic point of these contractual arrangements for firms, giving agencies and end-users the flexibility to adjust quickly the supply of labour in accordance with demands... Aside from the possibility of adverse publicity, exit is costless.'

Ironically, those most in need of legal protection are least likely to benefit from it.

Policy recommendations:

Too many working parents have been left without a safety net at a moment of crisis: it's time to end the inequality in access to employment rights based on employment status. The forthcoming Employment Bill is a golden opportunity to make the radical changes that we need—ensuring all parents have access to all employment rights, regardless of whether or not they are enrolled in PAYE.

The government should introduce eight weeks of non-transferable paid parental leave per parent per child, to help working families to weather unexpected storms. 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.

Finally, the government's next steps around achieving flexible jobs as the default rather than the exception—as committed to in the Queen's Speech—must be meaningful enough to tackle the reluctance and misperceptions from some employers about how to work flexibly. These outmoded and rigid attitudes slowed their response to the pandemic, potentially putting their workers at risk of exposure to the virus.

In the midst of the unfolding crisis that the country is grappling with, there is little time to consider the long-term social changes that may come about as a consequence of the adaptations that the UK has made. However, it is clear that the ways in which employers have changed their ways of working in order to comply with the government's requirement for home working 'where possible' have irrevocably demonstrated that there is flexibility in many, many more jobs than those that are currently offered on a flexible basis. Employers—and the government—should be looking to harness the increases in productivity, talent attraction and diversity that flexible working brings to the UK economy long after the coronavirus pandemic has run its course

<https://uklabourlawblog.com/2020/03/31/not-legislating-in-a-crisis-the-coronavirus-job-retention-scheme-part-2-by-michael-ford-and-alan-bogg/>

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