

**Evidence to the Business,
Energy and Industrial Strategy
Committee inquiry on the impact
of coronavirus on businesses
and workers**

Thursday 28 May 2020

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Introduction

1. The Equality and Human Rights Commission has been given powers by Parliament to advise Government¹ on the equality and human rights implications of laws and proposed laws, and to publish information or provide advice, including to Parliament, on any matter related to equality, diversity and human rights.
2. In this submission, we provide views on the equality and human rights implications of the coronavirus pandemic and responses to it in relation to employment. We make recommendations for measures we think should be taken by Government in response.²
3. As Britain's national equality body and human rights institution, we play a key role supporting and scrutinising the impact of the Government response. We will work with Government and Parliament, as well as regulators, public bodies, business and non-governmental organisations, to monitor and mitigate direct and indirect equality and human rights impacts.
4. We are working with stakeholder groups to update our approach as the impacts on communities, individuals and the economy become clearer. We will use our powers and levers flexibly and strategically to promote compliance with the law and ensure people understand their rights, working closely with regulators, inspectorates and ombudsmen schemes to improve practice. We will take action quickly to defend the rights of people in the most vulnerable situations, through strategic legal action, investigations and other enforcement activities and inquiries.

Executive Summary

5. The equality and human rights implications of the coronavirus pandemic stretch far and wide. It has precipitated a global public health and economic crisis that is significantly impacting all areas of life for everyone throughout Britain. Early evidence and information from our stakeholders indicates that coronavirus and responses to it may be directly impacting disproportionately

¹ References to Government, Departments and Ministers throughout this submission refer to the UK Government, Departments and Ministers except where otherwise specified.

² The situation and associated legislative and policy responses are shifting at pace. We will update our advice in consultation with Government and stakeholders as the situation evolves.

on some groups, and causing indirect impacts by exacerbating existing inequalities across all areas of life.

6. Before the outbreak of coronavirus, we knew that persistent disadvantages faced by certain groups were leaving too many people behind. Our state of the nation report, 'Is Britain Fairer? 2018', found that progress in some areas was overshadowed by alarming backwards steps in others, and that there were also significant inequalities between the regions and nations of Great Britain. Prospects for disabled people, some ethnic minorities and children from poorer backgrounds had worsened in many areas of life. Sexual harassment and domestic violence remained persistent and growing concerns, affecting women and girls disproportionately, and women were more likely than men to be in low-pay occupations. We found poverty to be particularly prevalent among disabled people and some ethnic minorities.³
7. The Commission welcomes the opportunity to provide evidence to this BEIS Select Committee Inquiry into the impact of the virus on business and workers. All workplaces and employees will be affected by coronavirus. However, the crisis is affecting different groups, and different parts of the country, in different ways. While noting that men comprise the majority of critical care cases, the Women's Budget Group has highlighted how women are disproportionately affected, for example through comprising the majority of health and care workers and of low paid workers.⁴ Recent analysis by the ONS indicates that men in certain low paid occupations with frequent and close interaction with others are at greater risk of exposure to the virus, and that ethnic minorities are overrepresented in this roles. Workers over 55 are also overrepresented in some high risk sectors, such as social care.⁵ Disabled people, who already face significant challenges in securing and maintaining employment⁶, are more likely to work part-time, in lower paid or lower skilled roles⁷, also face disproportionate disadvantage and discrimination due to coronavirus.
8. This extraordinary situation has also shone a light on the precarious nature of gig economy employment, where women, young people and certain

³ Equality and Human Rights Commission ('EHRC') (2018), [Is Britain Fairer?](#)

⁴ Women's Budget Group (April 2020), [Crises Collide: Women and Covid-19](#)

⁵ ONS (May 2020) [Understanding the impact of coronavirus on the workforce](#)

⁶ EHRC (2017) [Being disabled in Britain](#)

⁷ Disabled people are more likely to be self-employed [Leonard Cheshire (April 2020) [Policy briefing: employment and coronavirus](#)] or in part time, lower skilled or lower paid employment [DWP/DHSC (2019) [The employment of disabled people](#)]

ethnic minorities are over-represented.⁸ The lack of basic employment rights such as sick pay mean that many are forced to continue working. In addition, women are hugely over-represented in health and social care,⁹ childcare and education sectors, and also bear the brunt of their own childcare needs.¹⁰ This places huge challenges in terms of individual health and well-being, but also in terms of their ability to participate in the labour market after social distancing ends, if schools are still closed, or if childcare provision is eroded further.

9. Disabled employees are reporting that their employers are failing to provide reasonable adjustments so that they can work effectively, or are placing them on furlough or unpaid leave against their wishes¹¹. Similar experiences are being related by pregnant women and those on maternity leave. In some cases, we know that disabled people or pregnant women have been made redundant, despite Government initiatives such as the furlough scheme, either because employers believe this is in the best interests of their employees, or because they are struggling to meet their obligations to make adjustments under equality or health and safety law.
10. There are also worries about the safety and wellbeing of ethnic minority workers. Recent analysis by the ONS indicates that when age is taken into account, Black males are more than 4 times as likely as White males to die from a COVID-related death and Black females are more than 4 times more likely than White females to do so¹². Other ethnicities also have higher than average mortality rates. This, in conjunction with ethnic minority workers being overrepresented in sectors with high potential for exposure to the virus¹³, is an issue of huge concern.

⁸ Department for Business, Innovation and Skills (2018), '[The characteristics of those in the gig economy](#)'; Women's Budget Group (April 2020), [Crises Collide: Women and Covid-19](#)

⁹ According to the Women's Budget Group, 77% of healthcare staff are women. 83% of those working in social care are women, and around 21% are ethnic minorities. See Women's Budget Group (April 2020), [Crises Collide: Women and Covid-19](#)

¹⁰ Almost 3 in 10 mothers report reducing their working hours for childcare reasons, compared with 1 in 20 fathers ONS (2019), [Families and the labour market](#) The Resolution Foundation notes that 39% of working mothers were key workers before the crisis began, compared to just 27% of the working population as a whole. Resolution Foundation (April 2020), [Economic impacts of the coronavirus crisis on different groups of workers](#)

¹¹ Disability Rights UK (April 2020) [response to the Women and Equalities Committee on the impact of coronavirus on disabled people](#)

¹² Office for National Statistics (April 2020) [Coronavirus \(COVID-19\) related deaths by ethnic group, England and Wales: 2 March 2020 to 10 April 2020](#)

¹³ Office for National Statistics (May 2020) [Which occupations have the highest potential exposure to the coronavirus \(COVID-19\)?](#)

11. The Commission's 'Is Britain Fairer? 2018' report found that young people, disabled people, Pakistani and Bangladeshi people, and Muslims were more likely to be in insecure employment than other groups.¹⁴ Young people are particularly likely to work in shutdown sectors, which have an uncertain longer term viability; nearly two-fifths of 16-24-year olds in work, and more than three-fifths of those born after 2000, are in these sectors.¹⁵ The Government will need to consider and respond fully to the challenges facing these groups as it moves to end social distancing and return the country to work.
12. Yet despite the significant challenges facing Britain's employers, there are some positives. In April 2020, more than 40% of adults in employment reported that they had worked at home at some point during the week¹⁶ compared to 12% in 2019.¹⁷ The Commission has long called for flexible working to be the default and for it to be a day one right for workers and we hope that the Government and employers will reflect on the recent necessary shift towards home working and other forms of increased flexibility, and take steps to introduce flexible working as the norm in the future. The expansion of flexible working to meet business need has shown that inclusive workplace practices which reduce disadvantage and benefit employees, also make businesses better able to withstand the challenges posed by crises of this nature.
13. The Commission has been actively engaged on these issues. In addition to our recent correspondence with the Committee Chair (Annex 1), we have recently written to the Secretary of State (Annex 2) seeking assurances that equality and human rights are at the centre of decision-making, in line with the Government's obligations under the Public Sector Equality Duty (see paragraph 18 below) but have yet to receive a response. We will update the Committee on this should we receive one.
14. The Commission has also published a raft of guidance to ensure that employers are able to comply with their ongoing obligations under the Equality Act 2010 as they deal with the challenges presented by the pandemic, particularly with regards pregnancy/maternity and reasonable

¹⁴ Equality and Human Rights Commission ('EHRC') (2018), [Is Britain Fairer?](#) p. 38.

¹⁵ Resolution Foundation (April 2020), [Economic impacts of the coronavirus crisis on different groups of workers](#)

¹⁶ Office for National Statistics (April 2020) [Coronavirus and the social impacts on Great Britain](#)

¹⁷ Office for National Statistics (March 2020) [Coronavirus and homeworking in the UK labour market: 2019](#)

adjustments¹⁸. We will continue to review and enhance our offer so that Britain's employers are fully supported over the coming months.

15. With the country already beginning to show signs of recession, there is an urgent need for employers and for the Government to take steps to ensure that workers with particular protected characteristics do not face further detriment. We believe it is also important in the longer term that the Government continues to pursue its agenda of 'levelling up' and commits to tackling the inequality of opportunity that currently exists across and between the different regions and nations in Great Britain. The response to the pandemic provides an opportunity for Government to work more closely with local and regional devolved authorities and business leaders to develop more sustainable and inclusive economies which are based on the principles of equality and human rights.

Our Recommendations

16. Key recommendations:

- i. We urge the Government to publish evidence of its assessment of the impact of coronavirus on workers sharing particular protected characteristics, in line with its obligations under the Public Sector Equality Duty, and to work with the Commission as it develops further plans to return Britain to work in order to ensure the safety of workers, protect them from discrimination, and ensure long-standing labour market inequalities are addressed and not exacerbated;
- ii. Government and public authorities responsible for data collection should assess, monitor and report on the impact of coronavirus and the legislative and policy response on human rights and equality of workers;
- iii. The Government should introduce part-time furlough now, rather than delaying until August, and introduce the right to request furlough immediately. It should also take steps to promote this and the newly announced offer of part time furlough widely to all employers and employees;
- iv. The Government needs to make clear to employers that if they cannot ensure the health and safety of pregnant employees by making workplace adjustments, then pregnant employees should be placed on full paid leave;
- v. The Government should also amend the Coronavirus Job Retention Scheme (CJRS) guidance to make clear that employers who are struggling to afford paid suspension on maternity grounds can place

¹⁸ EHRC (May 2020) [Coronavirus \(COVID-19\) guidance for employers](#)

- those employees on maternity suspension and furlough concurrently, and claim help with the costs via the CJRS scheme;
- vi. The Government should remind employers of their obligations under equality law in relation to unlawful pregnancy and maternity discrimination and employers should ensure they offer flexibility and choice to all their employees;
 - vii. The Government should take steps to improve the advice and guidance it provides to employers on supporting disabled employees as the return to work strategy is progressed;
 - viii. The Government should review the National Disability Strategy in light of the challenges facing disabled people in employment, and engage with Deaf and Disabled People's Organisations, business representative groups, unions and the Commission to identify actions to address future labour market participation challenges;
 - ix. The Government should consider taking steps to mitigate the financial hardship faced by gig economy workers by providing the same financial support available to other employees;
 - x. The Government should remove the earning thresholds for SSP and the CJRS, and increase SSP to National Minimum Wage levels to help to reduce this disadvantage;
 - xi. The Government should amend the Self Employment Income Support Scheme to exempt maternity leave from average earnings calculations;
 - xii. The Government should ensure that appropriate financial support is in place for migrant workers with no recourse to public funds;
 - xiii. The Government must act urgently to protect the rights of health and social care workers at potential risk of contracting COVID-19 by providing adequate PPE, which is fit for different groups of workers such as women and ethnic minorities;
 - xiv. The Government must ensure financial support is in place for those who are required to continue shielding, or who have caring responsibilities for those shielding, and review and revise its proposals in the Health is Everyone's Business consultation to ensure that the particular challenges facing disabled people and their unpaid carers are addressed in the Government's plans to return Britain to work;
 - xv. Government guidance on returning to work should take into account and address the specific risks to the safety and health of particular workers, including ethnic minority workers, pregnant women, disabled workers and those with health conditions;
 - xvi. We also recommend that the Government takes steps to ensure that any and all departmental guidance relating to return to work reflects employers' and service providers' equality obligations effectively, accurately and consistently, and to ensure that employer and employee advice and guidance is centrally available, and signposts clearly to other sources of information;
 - xvii. The Government should implement as a matter of urgency its earlier commitment to extend pregnancy and maternity redundancy protections by a further six months;
 - xviii. We urge the Government to implement its commitment in 'Gender Equality at Every Stage: a roadmap for change' to establish a

pregnancy and maternity taskforce as quickly as possible and consider undertaking similar research on pregnancy and maternity discrimination in the workplace to that done in partnership with the Commission in 2015;

- xix. The Government should undertake analysis on the number of employees made redundant disaggregated by protected characteristic, full-time and part-time status, occupation, and industry as part of its wider assessment of the impact of coronavirus to find ways to mitigate any disproportionate impact on different groups;
- xx. We urge the Government to work collaboratively with local and regional devolved authorities and business leaders to develop more sustainable and inclusive economies which are informed by the principles of equality and human rights, and ensure equality of opportunity, and address occupational segregation and other labour market barriers experienced by particular protected groups;
- xxi. To address gender pay inequality, we urge the Government to make time bound, target driven action plans mandatory as part of Gender Pay Reporting, and to work with the Commission to introduce guidance setting out how plans should be structured and published, and how they can tackle unequal outcomes of the crisis for workers;
- xxii. We recommend that the UK Government reviews its existing proposals on ethnicity pay reporting, undertakes an evaluation of the Voluntary Disability Reporting Framework, and works with the Commission and the Office for National Statistics to develop standardised classification systems and practical guidance on consistent data collection and reporting for employers;
- xxiii. We encourage the UK government to introduce mandatory monitoring and reporting on the recruitment, retention and progression of disabled people and ethnic minority groups for employers with over 250 staff by April 2022 and to also introduce mandatory action planning for employers to address the factors contributing to disability and ethnicity employment and pay gaps;
- xxiv. The Government should legislate to extend the time limits for bringing claims under the Equality Act 2010 at Employment Tribunal to six months, and the discretion to extend time limits on a just and equitable basis should be extended to include equal pay claims;
- xxv. The Government should extend the right to request flexible working from day one in all jobs, unless there is a genuine business reason that means this is not possible, and require employers to offer and advertise all jobs, including the most senior roles, on a flexible and part-time basis unless there is a genuine business reason that means this is not possible;
- xxvi. The Government should take steps to address problems with the availability and affordability of childcare, including ensuring adequately funded, flexible and high-quality childcare for all children;
- xxvii. The Government should make paternity and shared parental leave a day one right for employees, and make similar provision for agency and self-employed workers;

- xxviii. The Government should introduce a new provision for 5 days paid carers' leave per annum to provide financial stability to carers;
- xxix. The Government should introduce a mandatory duty to take reasonable steps to prevent harassment and victimisation in the workplace, enforceable by both individuals and the Commission, publish the outcome of last year's consultation, and ratify the International Labour Organisation Convention 190 on workplace violence and harassment.

Legal and Policy Context

17. The Equality Act 2010 ('the Act') provides a legal framework that protects individuals from discrimination, promoting a fair and more equal society. The Act protects people against discrimination on the basis of nine protected characteristics¹⁹ and sets out clear protections for employees from discrimination in all areas of employment, including terms and conditions, pay and benefits, and redundancy.
18. The Act also contains the Public Sector Equality Duty (the 'PSED'), which requires all public authorities to take active steps to consider equality when exercising their functions.²⁰ **Government departments and other public authorities must comply with the PSED in responding to coronavirus, by considering the needs and disadvantages of people with different protected characteristics, and engaging with national and local representative groups and with UK, Scottish and Welsh institutions. They should assess the potential impact of policies as they develop, monitor their impact during implementation, and stop or adapt them when evidence shows they can lead to unlawful discrimination or disproportionately adversely affect people with particular protected characteristics.** This will be particularly important as Government moves to end social distancing and return the country to work.
19. We are concerned that the Government's recovery strategy and associated guidance has been subject to limited consultation, and does not include consistent reference to equality considerations and its human rights obligations. Despite writing recently to the Secretary of State seeking

¹⁹ Age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation (Section 4, [Equality Act 2010](#))

²⁰ Section 149 of the Equality Act 2010 requires public authorities and those exercising a public function to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations between those who share protected characteristics and those who do not.

assurance that plans are in place to ensure that the equality implications of emerging proposals are given proper consideration, we have yet to receive a response, and have seen no evidence to date of any analysis of the impact of the strategy on protected groups.

20. We **urge the Government to publish evidence of its assessment of the impact of coronavirus on workers sharing particular protected characteristics**, and to **work with the Commission as it develops further plans to return Britain to work** in order to ensure the safety of workers, protect them from discrimination, and ensure long-standing labour market inequalities are not exacerbated.

21. Workers' rights are also protected in a number of legally binding international human rights treaties that the UK has ratified. In particular, the [International Covenant on Economic, Social and Cultural Rights](#) (ICESCR) guarantees the right to just and favourable conditions of work, without discrimination, including the right to safe and healthy working conditions.²¹ The [UN Convention on the Rights of Persons with Disabilities](#) (CRPD) guarantees the right of disabled people to work on an equal basis with others, and requires reasonable adjustments to be provided in the workplace.²² The [UN Convention on the Elimination of all forms of Discrimination Against Women](#) (CEDAW)²³ and the [UN Convention on the Elimination of Racial Discrimination](#) (CERD)²⁴ also protect the rights to work and to just and favourable working conditions, without discrimination.

Data, scrutiny and monitoring

²¹ **Article 6 of ICESCR** protects the right to work, and **Article 7 of ICESCR** sets out the right to just and favourable conditions of work. This entails in particular the right to fair wages and equal remuneration for work of equal value, and a decent living for workers and their families. It also includes the right to safe and healthy working conditions. **Article 2 of ICESCR** guarantees these rights without discrimination.

²² See **Article 27 of CRPD**, which also prohibits discrimination against disabled people in recruitment, hiring, employment and career advancement.

²³ **Article 11 of CEDAW** sets out the State's obligation to eliminate discrimination against women in the field of employment, including their obligation to prevent discrimination against women on the grounds of marriage or maternity. It also identifies the right to:

- equal employment opportunities, and the application of the same criteria for selection;
- free choice of profession, the right to promotion, job security and all benefits and conditions of service, and the right to receive training, including apprenticeships;
- equal remuneration, including benefits, and equal treatment in respect of work of equal value;
- social security and paid leave; and
- protection of health and safety in working conditions, including where it relates to women's reproductive health.

²⁴ Similarly, **Article 5 of CERD** sets out the State's obligation to guarantee rights without discrimination on the basis of 'race, colour, or national or ethnic origin'. In relation to work, it identifies the right to free choice of employment, just and favourable working conditions, protection against unemployment, equal pay for equal work and to form/join trade unions.

22. To ensure effective monitoring of the impacts of coronavirus and the emergency measures – particularly indirect effects – it is essential that good quality data disaggregated by different protected characteristics and broken down to regional and local levels is available. **Government and public authorities responsible for data collection should assess, monitor and report on the impact of coronavirus and the legislative and policy response on human rights and equality in the workplace.**

Our Response

23. There are a number of areas requiring immediate action by Government to ensure that emerging labour market inequalities and concerns about safe working environments are addressed swiftly and effectively in line with obligations under equality and human rights legislation.

Pregnancy and maternity discrimination

24. The Government currently advises pregnant employees to practice social distancing in case they are at a particular risk during the coronavirus pandemic.²⁵ The Commission is aware of concerns relating to pregnant workers and those on maternity leave,²⁶ which vague or inconsistent advice from Government and certain health sector representative bodies has compounded. These include:

- a. Being forced to take unpaid leave, start maternity leave early, or being placed on sick leave, rather than furloughed;
- b. Being refused furlough despite male colleagues being placed on the Coronavirus Job Retention Scheme, because they have childcare responsibilities and are not deemed to be working.²⁷
- c. The Government **should a) introduce part-time furlough now, rather than delaying until August, and b) introduce the right to request furlough immediately. It should also take steps to promote this and the newly announced offer of part time furlough widely to all employers and employees;**

²⁵ UK Government (March 2020, now withdrawn) [Guidance on social distancing for everyone in the UK](#)

²⁶ Maternity Action (April 2020) [Letter to Dominic Raab on the health and safety of pregnant employees and financial support for working parents](#)

²⁷ Working Families (April 2020) [Weathering the storm: the Covid 19 pandemic and working parents](#)

- d. Being forced to work without proper health and safety risk assessments, in breach of health and safety law. In line with its obligation to guarantee safe and healthy working conditions for pregnant workers,²⁸ the Government **needs to make clear to employers that if they cannot ensure the health and safety of pregnant employees by making workplace adjustments, then pregnant employees should be placed on full paid leave**; the Government **should also amend the CJRS guidance to make clear that employers who are struggling to afford paid suspension on maternity grounds can place those employees on maternity suspension and furlough concurrently, and claim help with the costs via the CJRS scheme**. This would ensure that vulnerable workers get the legal protection to which they are entitled including their full salary while on maternity suspension.
 - e. Facing financial penalties due to salary calculations for furlough support schemes, which are based on an employee's actual salary at 28 February 2020. This disadvantages parents who have just returned from maternity or paternity leave, especially women who may be returning from a period of unpaid maternity leave.
25. Pregnant women should not be disadvantaged financially, or in their careers, by following advice to protect the health of themselves and their families, or by being placed on furlough against their wishes. **The Government should remind employers of their obligations under equality law in relation to unlawful pregnancy and maternity discrimination and employers should ensure they offer flexibility and choice to all their employees.**
26. Our 2015 pregnancy and maternity research found that around one in 20 mothers were made redundant at some point during pregnancy; maternity leave; or on return from maternity leave.²⁹ As employers face increased financial difficulty and uncertainty throughout the coronavirus response, pregnant women and those on maternity leave are at an even greater risk of being unfairly discriminated against, and forced into redundancy. It is important for the Government to take action to protect women from such discrimination, particularly given the Government's binding obligations under CEDAW to eliminate discrimination against women in the field of

²⁸ Article 7(b) ICESCR; Committee on Economic, Social and Cultural Rights (2016), [General Comment No. 23 on the right to just and favourable conditions of work](#).

²⁹ EHRC (2015) [Pregnancy and maternity-related discrimination and disadvantage: Experiences of Employers](#)

employment, including on the grounds of pregnancy and maternity.³⁰ The Commission welcomed **earlier commitments from Government to extend pregnancy and maternity redundancy protections by a further six months to offer greater protection to new and expecting mothers. These protections must be urgently implemented to prevent this discrimination from taking place.**

Disabled workers, reasonable adjustments and social distancing requirements

27. Disabled people already face huge challenges in gaining and sustaining employment. Despite recent progression, the disability employment gap currently stands at 28.6%³¹ and the impact of the pandemic may place disabled people's longer term participation in the labour market at risk.

28. The Equality Act 2010³² places a positive duty on employers to make sure that, as far as is reasonable, a disabled worker has the same access as a non-disabled worker to everything involved in doing and keeping a job.³³ In addition, as noted above, the Government is obliged under international human rights law to ensure that disabled people are provided with reasonable adjustments and an accessible work environment, to enable them to enjoy the right to just and favourable conditions of work on an equal basis with others.³⁴

29. The Government has required all workers who can work from home to do so³⁵ but recent reports indicate that some disabled people are being threatened with redundancy if they do not return to work, despite having valid concerns about their health and safety in light of social distancing requirements.

30. Further, many of the barriers that disabled workers face in the workplace have increased due to the current crisis. Disabled employees have

³⁰ [Article 11 of CEDAW](#) sets out the State's obligation to eliminate discrimination against women in the field of employment, including their obligation to prevent discrimination against women on the grounds of marriage or maternity.

³¹ Office for National Statistics (2019) [Disability and employment, UK: 2019](#)

³² Section 20, [Equality Act 2010](#)

³³ [CRPD Article 27](#) also recognises this requirement.

³⁴ CRPD Article 27(1); Committee on the Rights of Persons with Disabilities (2018), [General Comment No. 6 on equality and non-discrimination](#), para 67; Committee on Economic, Social and Cultural Rights (2016), [General Comment No. 23 on the right to just and favourable conditions of work](#), para 47(c); f

³⁵ UK Government (March 2020) [Coronavirus \(COVID-19\): guidance](#)

reported that their employers are struggling to provide reasonable adjustments so that they can work effectively, or are placing them on unpaid leave. In some cases, disabled workers have been furloughed instead of having their requests for reasonable adjustments met.³⁶

31. We also recognise that the requirement to work from home may be particularly difficult for some employees, particularly disabled workers. In 2017-2018, 13.3% of disabled people reported that they felt lonely 'often or always', compared with only 3.4% for non-disabled people³⁷. Research has suggested that not being able to access supportive networks can contribute to higher rates of loneliness amongst disabled people³⁸. Employers should continue to encourage social inclusion to support the mental health of employees, and consider the potential negative impacts of long-term home working on mental health. In the long term, employees should be given the flexibility to work in a way that suits them where possible, and benefits their own mental health.

32. Disabled workers should not be disadvantaged financially, or forced to work in unsuitable or unsafe ways. We **urge the Government to take steps to improve the advice and guidance it provides to employers on supporting disabled employees as the return to work strategy is progressed**, and were encouraged by recent discussions with officials at the DWP on its plans to centralise and harmonise employer guidance, and its commitment to working collaboratively with the Commission, Acas and others to ensure that equality considerations are addressed effectively.

33. The Government has committed to developing a National Strategy for Disabled people in 2020 to increase opportunities for disabled people, and their ability to participate in society³⁹. It is important that the Government continues with this commitments and ensure that the pandemic does not reverse progress, or exacerbate existing inequalities. We **call upon the Government to review the National Disability Strategy⁴⁰ in light of the challenges facing disabled people in employment**, and that they **engage with Deaf and Disabled People's Organisations, business representative groups, unions and the Commission** to identify actions to address future labour market participation challenges.

³⁶ These reports have reached us via the Equality Advisory Support Service.

³⁷ Office for National Statistics (2019) [Disability, Wellbeing and Loneliness, UK 2019](#)

³⁸ The Jo Cox Commission on Loneliness (2017) ["Someone cares if I'm not there" Addressing loneliness in disabled people](#),

³⁹ UK Government (April 2020) [A National Strategy for Disabled People to remove barriers and increase participation](#)

⁴⁰ [Ibid](#)

The impact on workers with protected characteristics in the gig economy, low-paid industries, or in self-employment

34. We welcome the financial measures the Government has put in place for many employees and employers; however, there has been confusion over eligibility for self-employed⁴¹ and gig economy workers. This unprecedented situation has revealed the lack of basic employment rights such as sick pay that mean many gig economy workers have no choice but to continue working. This type of work is predominantly low paid and precarious, with an overrepresentation of young workers⁴² and ethnic minorities.⁴³
35. While in the population as a whole women are more likely to work in shut-down sectors such as retail and hospitality – low pay sectors that account for about a quarter of all employment in the UK economy, and which are particularly affected by social distancing requirements⁴⁴, men from ethnic minority groups are also particularly affected. Bangladeshi men are four times as likely as white British men to have jobs in shut-down industries, in part due to their concentration in the restaurant sector, and Pakistani men are nearly three times as likely, partly due to their concentration in taxi driving. Black African and black Caribbean men are both 50% more likely than white British men to be in shut-down sectors⁴⁵ As a result coronavirus is likely to have a greater effect on the earnings of these groups now and in the future with many employers within these sectors under threat as their long term future is uncertain. The Government **should consider taking steps to mitigate the financial hardship faced by gig economy workers by providing the same financial support available to other employees.**
36. There is also evidence that coronavirus is having a disproportionate impact on some ethnic minority workers because long standing labour market inequality has led to certain ethnic groups being concentrated in low-paid,

⁴¹ Self-employed women working full-time earn on average 66% of the annual earnings of self-employed men who do so: [Family Resources Survey 2017-18](#).

⁴²UK Government (February 2018) [The characteristics of those in the gig economy](#)

⁴³ Recent analysis shows that BME women are three times more likely to be in precarious work and are therefore unlikely to qualify for either SSP or furlough; Women's Budget Group (April 2020) [Crises Collide: Women and Covid-19](#)

⁴⁴ Resolution Foundation (April 2020) [Economic impacts of the coronavirus crisis on different groups of workers](#)

⁴⁵ Institute for Fiscal Studies (April 2020) [Are some ethnic groups more vulnerable to Covid-19 than others?](#)

insecure or agency work⁴⁶⁴⁷ in elementary occupations such as health and social care, cleaning and public transport⁴⁸.

37. Concerns have also been raised about the lack of support available to the self-employed, where certain ethnic groups, particularly Pakistani men, and Gypsy, Irish and Traveller groups, are concentrated⁴⁹. Self employed new mothers are also at a disadvantage because the Government's Self Employment Income Scheme (SEISS) penalises women who have been on maternity leave because the scheme uses the last three tax returns to calculate average profit⁵⁰. As women will have taken time out from their business whilst on maternity leave, profits will be considerably lower.

38. Low paid work also has an over-representation of women, and disabled people who often fail to meet the earnings threshold for either Statutory Sick Pay (SSP) or the Coronavirus Job Retention Scheme (CJRS). The Government **should remove the earning thresholds for SSP and the CJRS, and increase SSP to National Minimum Wage levels to help to reduce this disadvantage**. It should also **amend the SEISS to exempt maternity leave from average earnings calculations**.

Migrant workers with no recourse to public funds

39. Concerns have been raised about the challenges faced by migrant workers with no recourse to public funds, including migrant women who are key workers⁵¹. For migrant workers with no recourse to public funds who are in low-paid employment and lose income, there are particular risks of destitution and greater health risks where there is pressure to continue working⁵². **The Government should ensure that appropriate financial support is in place for migrant workers with no recourse to public funds**.

⁴⁶ EHRC (2018) [Measuring and reporting disability and ethnicity pay gaps](#)

⁴⁷ EHRC (2018) [Is Britain Fairer?](#)

⁴⁸ Race Equality Foundation (May 2020) [NHS Covid 19 and health care worker deaths: questions that need asking](#)

⁴⁹ Runnymede Trust (April 2020) [Coronavirus will increase race inequality](#)

⁵⁰ Pregnant Then Screwed (May 2020) [Benefit entitlements for the self employed during Covid-19](#)

⁵¹ Women's Budget Group (April 2020) '[Crises Collide: Women and Covid-19](#)'; Women's Budget Group (May 2020) [Migrant Women and the Economy](#)

⁵² The Independent Scientific Advisory Group for Emergencies (12 May 2020), '[COVID-19: what are the options for the UK? Recommendations for government based on an open and transparent examination of the scientific evidence](#)'; the Joint Council for the Welfare of Immigrants (25 March 2020) '[COVID-19 Briefing to the Home Affairs Committee](#)'.

Safe and healthy working conditions and return to work

40. The Government has been criticised over PPE shortages for those working in health and social care, and community health services, which particularly disadvantages women given their over-representation in these sectors.⁵³ This puts workers at considerable risk and is inconsistent with the Government's human rights obligations to protect the rights to life⁵⁴ and health,⁵⁵ and to provide safe and healthy working conditions.⁵⁶ One-size-fits-all PPE also puts certain groups, particularly female workers and specifically pregnant women⁵⁷, at heightened risk.⁵⁸ The lack of PPE for carers also raises concerns that older and disabled people will be at an increased risk of infection.⁵⁹ The Government **must act urgently to protect the rights of health and social care workers at potential risk of contracting COVID-19 by providing adequate PPE, which is fit for different groups of workers such as women and ethnic minorities**, who are overrepresented amongst health and social care workers.
41. The relaxation of lockdown and social distancing measures may place further challenges for certain groups. We know already that disabled employees, those with long term health conditions, pregnant women or those with caring responsibilities face uncertainty about how they can return to work if they are required to continue shielding or observe social distancing guidelines stringently in line with Government advice. Government **must ensure financial support is in place for those who are required to continue shielding, or who have caring responsibilities for those shielding**, and **review and revise its proposals in the Health is Everyone's Business consultation**⁶⁰ to ensure that the particular

⁵³ See, for example: British Medical Association, '[Doctors still without adequate supplies of PPE, major BMA survey finds](#)', 18 April 2020 [accessed: 20 April 2020]; The Guardian, '[Residential homes 'desperate' for PPE, as two care workers die](#)', 6 April 2020 [accessed: 20 April 2020].

⁵⁴ Article 2 ECHR; Article 6 ICCPR.

⁵⁵ Article 12 ICESCR.

⁵⁶ Article 7(b) ICESCR.

⁵⁷ This is a particular concern for pregnant women where the correct PPE is not available. Whilst the RCOG says healthcare workers after 28 weeks pregnant should not be in patient facing role, those before 28 weeks should still be offered PPE even if they are socially distancing. RCOG (April 2020) [Updated advice for pregnant women who are working in the NHS](#)

⁵⁸ The Independent (April 2020), [Female NHS staff at risk due to not being able to 'access protective gear correctly sized for women](#). See also British Medical Association (April 2020), [BAME doctors hit worse by lack of PPE](#), which highlights the need to ensure effective PPE to meet different needs, including the needs of Sikh and Muslim doctors who wear beards for religious reasons.

⁵⁹ Research Institute for Disabled Consumers (April 2020), [Covid-19: Impact on disabled and older people survey](#); Women's Budget Group (April 2020), [Social care and Covid-19](#).

⁶⁰ Department for Business, Energy and Industrial Strategy 2019 [Health is everyone's business: proposals to reduce ill-health related job loss](#),

challenges facing disabled people and their unpaid carers are addressed in the Government's plans to return Britain to work. Employers too should be encouraged to offer flexibility and choice to their disabled employees or those with caring responsibilities.

42. The publication of the Government's coronavirus recovery strategy was much anticipated⁶¹. While the strategy has 'fairness' as one of the main principles underpinning the Government's approach, and makes passing reference to the impact of the pandemic on certain groups, for example noting that workers in most affected sectors such as hospitality and retail '*are more likely to be low paid, younger and female*'⁶², it offers no real evidence or analysis of the challenges facing those with particular protected characteristics, and no proposed mitigation. **We urge the Government again to provide evidence of how it is considering the equality and human rights implications as it progresses the recovery roadmap, and to draw upon the Commission's expertise in this area,**
43. Further, while the recent publication of sector guidance to facilitate return to work is welcome, the way in which equality obligations are addressed is inconsistent. For example some guidance contains a standalone section on equality law⁶³, whereas others take a more pragmatic approach and weave in more practical examples⁶⁴. There has also been, as noted above, little consultation with equality experts to ensure that the guidance addresses the barriers particular groups face.
44. The Commission has recently been in contact with BEIS policy officials regarding their plans for future guidance, and welcome assurances that they will engage with us to ensure equality obligations are accurately reflected going forward. We remain concerned though that because responsibility for sector specific guidance sits across departments, there is no standard approach, which places employers in particular sectors at a potential disadvantage. There appears to be a lack of central or strategic oversight ensuring equality law is reflected effectively or consistently in the return to work guidance being produced by Government departments.

⁶¹ UK Government (May 2020) [Our plan to rebuild: The UK Government's COVID-19 recovery strategy](#)

⁶² Ibid

⁶³ UK Government (May 2020) [Working safely during coronavirus \(COVID-19\)](#)

⁶⁴ Department for Transport (May 2020) [Coronavirus \(COVID-19\): new transport guidance for passengers and operators](#)

45. We note that some stakeholders state the guidance should merely be a starting point and that **Government should continue to update and expand its offer**⁶⁵. We agree with this position, and **offer our assistance to the Government in developing practical examples and case studies** so that in accordance with its human rights obligations to protect the rights to life and health, and to ensure safe and healthy working conditions, **guidance on returning to work takes into account and addresses the specific risks to the safety and health of particular workers, including ethnic minority workers, pregnant women, disabled workers and those with health conditions.**⁶⁶ We also recommend that the Government **takes steps to ensure that any and all departmental guidance relating to return to work reflects employers' and service providers' equality obligations effectively, consistently and accurately, and to ensure that employer and employee advice and guidance is centrally available, and signposts clearly to other sources of information** such as the Commission's own guidance. This will ensure that Britain's employers are better able to understand how they can comply with their own obligations under equality law and ensure that their employees are treated fairly.

Impact of recession

46. There are clear signs that Britain is entering a period of recession⁶⁷. Our analysis of the previous recession showed that women with childcare responsibilities were at a greater disadvantage than either men or other women in continuous employment.⁶⁸ The Commission's research into pregnancy and maternity discrimination also found that 1 in 20 pregnant workers or those on, or recently returning from, maternity leave experienced redundancy.⁶⁹

47. We cannot state at this point whether a similar proportion of mothers are being, or will be, made redundant due to coronavirus, but at the very least there is no reason to suppose that they will be **less** likely to be made redundant than they were in 2016. The Government **should therefore implement as a matter of urgency its earlier commitment to extend**

⁶⁵ UK Government (May 2020) [New guidance launched to help get Brits safely back to work: stakeholder commentary](#)

⁶⁶ Article 2 ECHR and Article 6 ICCPR; Articles 2(2), 12 and 7(b) ICESCR; Committee on Economic, Social and Cultural Rights (2016), [General Comment No. 23 on the right to just and favourable conditions of work](#).

⁶⁷ Bank of England (May 2020) [Monetary Policy Report and Interim Financial Stability Report](#)

⁶⁸ T. Hogarth et al, EHRC (2009) [The Equality Impacts of the Current Recession](#)

⁶⁹ EHRC and the Department for Business, Innovation and Skills (2016) [Pregnancy and maternity related discrimination: experiences of mothers](#)

pregnancy and maternity redundancy protections by a further six months.

48. In 2018 the Government published 'Gender Equality at Every Stage: a roadmap for change'⁷⁰ which had a commitment to establish a pregnancy and maternity taskforce. We urge the **Government to bring this forward as quickly as possible and consider undertaking similar research on pregnancy and maternity discrimination in the workplace to that done in partnership with the Commission in 2015.**

49. Evidence from Business in the Community also shows that ethnic minority groups fared worse as a result of the 2008 recession than the white majority, exacerbating pre-existing inequalities with higher unemployment, lower earnings, lower self-employment rates and higher housing costs.⁷¹ Disabled people also occupy a relatively disadvantaged place in the labour market in that they are disproportionately employed in low-skill, low paid work of a type that is vulnerable to any economic downturn.⁷²

50. As such we recommend that the Government should **undertake analysis on the number of employees made redundant disaggregated by protected characteristic, full-time and part-time status, occupation, and industry as part of its wider assessment of the impact of coronavirus and work with the Commission, trade unions and business representative groups to find ways to mitigate any disproportionate impact on different protected groups.**

Longer term interventions

51. In light of the current and anticipated challenges facing workers with protected characteristics, we also need to see longer term action taken so that existing inequalities are addressed. We urge the Government to implement its earlier commitments to create inclusive and accessible workplaces, in particular around flexible working, parental and carers' leave, sexual harassment and employment tribunal time limits; ensure non-regression of current standards, and consider wider factors affecting people's labour market participation such as the availability and affordability of childcare.

⁷⁰ Government Equalities Office (July 2019) [Gender equality at every stage: a roadmap for change](#)

⁷¹ Business in the Community (April 2020) [Ethnicity and the impact of Covid-19](#)

⁷² T. Hogarth et al, EHRC (2009) [The Equality Impacts of the Current Recession](#)

52. In the longer term we believe it is also important that the Government continues to pursue its agenda of 'levelling up' and commits to tackling the inequality of opportunity that currently exists across and between the different regions and nations in Great Britain. The longer-term economic impacts of the pandemic will not be felt equally across the country and, without intervention, will exacerbate existing structural inequalities between regions. We **urge the Government to work collaboratively with local and regional devolved authorities and business leaders to develop more sustainable and inclusive economies which are informed by the principles of equality and human rights, in order to ensure equality of opportunity, and address occupational segregation and other labour market barriers experienced by particular protected groups.**

Gender inequality in the workplace: data transparency and action plans

53. To allow employers to focus on supporting employees, the Government and the Commission jointly agreed to suspend mandatory gender pay gap reporting for the 2019/2020 reporting period.

54. However, this does not mean employers should cease to address gender inequality in the workplace, particularly as existing inequality is being exacerbated by the caring demands placed on women during the pandemic. In addition, there may be particular challenges arising as a result of placing staff on furlough, unpaid leave, paid special leave, sick leave, or disability leave; reducing staff hours and making redundancies. Detailed monitoring and reporting on the impact of the crisis on employees is required, so that effective action can be taken to mitigate any challenges faced by women in participating in the labour market, including during any forthcoming recession.

55. Employers must also act to reduce their pay gap. Action plans are critical to addressing gender pay inequality, and the Commission has called for these to be mandatory.⁷³ As part of the upcoming review into the Gender Pay Gap regulations,⁷⁴ we urge **the Government to make time bound, target driven action plans mandatory**, and to work with the Commission to **introduce guidance setting out how plans should be structured and published, and how they can tackle unequal outcomes of the crisis for workers.**

Ethnicity and disability pay gaps

⁷³ EHRC (2018) [From numbers to action](#)

⁷⁴ Hansard (9 March 2020) [To ask Her Majesty's Government what progress they have made in addressing the gender pay gap](#)

56. The Commission's previous research into ethnicity and disability pay inequality shows that pay gaps experienced by people from ethnic minorities and disabled people arise largely from the multiple and complex barriers they face accessing and progressing in work⁷⁵. For example, disabled people or those from an ethnic minority background are more likely to experience discrimination in recruitment, promotion and pay reward decisions. They are also more likely to be in part-time, lower-skilled, and/or lower-paid work, and in jobs with shorter contracts. Disabled people also face barriers staying in and re-entering employment.⁷⁶
57. While the Government has consulted on plans to extend ethnicity pay reporting in line with existing gender pay reporting requirements, and has introduced a voluntary reporting framework for disability, we believe a more nuanced approach is required, which requires reporting the outcomes for disabled or ethnic minority staff at key stages in the employment journey: recruitment, retention and progression. Reporting on these stages will provide much more detailed insight into, and opportunities for action to address, the specific barriers facing these groups. This is particularly important now because, as outlined above, the barriers facing disabled and ethnic minority staff will likely be worsened by the impacts of coronavirus, especially if, as expected, there are substantial job losses.
58. As such we recommend that the UK Government **reviews its existing proposals on ethnicity pay reporting, undertakes an evaluation of the Voluntary Disability Reporting Framework, and works with the Commission and the Office for National Statistics to develop standardised classification systems and practical guidance on consistent data collection and reporting for employers.** Once this has been done, we encourage the UK government to **introduce mandatory monitoring and reporting on the recruitment, retention and progression of disabled people and ethnic minority groups for employers with over 250 staff by April 2022 and introduce mandatory action planning to address the factors contributing to disability and ethnicity employment and pay gaps.**

Employment tribunal time limits

⁷⁵ EHRC (2018) [Measuring and reporting on disability and ethnicity pay gaps](#)

⁷⁶ EHRC (2017) [Being disabled in Britain](#)

59. Employees who face discrimination during the coronavirus pandemic must have access to justice and appropriate support through the employment tribunal process. However, the time limits for bringing claims under the Equality Act 2010⁷⁷ may prevent some people with protected characteristics from getting access to justice in the current circumstances.⁷⁸ The lack of support through the process and the time limit to bring a claim act as barriers to this justice, and will likely have an even greater impact during this challenging period. The Government should increase support for employees within the current tribunal process by strengthening legal aid provisions for discrimination cases, and extending the time limit in which claims can be brought.
60. In addition, our recent inquiry into legal aid indicated that the introduction of tribunal fees in 2013 caused discrimination claims to dramatically decrease.⁷⁹ In 2017, these fees were found to be unlawful by the Supreme Court, but the number of employment tribunals has not returned to pre-2013 levels, and legal aid remains unavailable for discrimination cases that progress to court. Employees who are unable to finance their own discrimination cases are unable to access rights via the court system. This has a particular impact on women, ethnic minorities, and disabled people who are overwhelmingly concentrated in low paid or precarious employment, and the sectors most impacted by Government closures related to coronavirus.
61. The Commission also considers that the three month limit is insufficient for bringing an Equality Act claim to an Employment Tribunal, especially in the context of coronavirus and the subsequent disruption to businesses. Evidence from our research into sexual harassment in the workplace found that for many people, three months does not give sufficient time to recover from the situation, consider what has happened to them; make a decision to pursue the claim, seek legal advice and start the legal process⁸⁰. Women bringing pregnancy and maternity discrimination claims also experience

⁷⁷ Six months for bringing non-employment claims (Section 118 of the Equality Act 2010) and three months for both employment claims (Section 123 of the Act) and judicial review (See Ministry of Justice (2020), [Civil Procedure Rules, Part 54, Judicial Review and Statutory Review](#))

⁷⁸ The Presidents of the Employment Tribunals have already recognised that 'the pandemic may have an impact on when and how individuals can take legal advice about claims', acknowledging it 'has no power to change those time limits' and that this is a decision for Parliament. See Tribunals Judiciary (2020), [The Employment Tribunals in England and Wales and in Scotland, FAQs arising from the Covid-19 pandemic](#), question 18

⁷⁹ EHRC (June 2019), [Access to Legal Aid for Discrimination Cases](#)

⁸⁰ EHRC (2018) [Turning the tables: Ending sexual harassment in the workplace](#)

similar challenges⁸¹. Disabled people may also need further reasonable adjustments at this time, for example if they need to meet with representatives in person rather than via technology, and time should be built into the process to make this possible. Given the Government closure of many businesses, it is also likely that many cases have been halted, and so the employment tribunal system faces a significant increase in cases with potentially reduced resources.

62. Government **should legislate to extend the time limits for bringing claims under the Equality Act 2010 at Employment Tribunal to six months**, to help alleviate any barriers to accessing justice and ensure that people who have experienced discrimination can get an effective remedy. In addition, **the discretion to extend time limits on a just and equitable basis should be extended to include equal pay claims.**

Flexible working

63. Social distancing measures have required many employers to implement flexible working practices in order to survive, and has demonstrated that it is possible, and beneficial to both employer and employees. We hope to see this practice continue as the crisis draws to a close as flexible working enables many people to participate in the labour market, particularly those with caring responsibilities,⁸² and disabled people,⁸³ leading to greater efficiency, reducing stress and increasing employees' motivation and commitment.

64. We have previously urged the Government **to extend the right to request flexible working from day one in all jobs, unless there is a genuine business reason that means this is not possible.**⁸⁴ Employees currently have the right to request flexible working after 26 weeks of employment, but an online survey of adults in 2019 by the TUC has found that nearly a third of requests for flexible working are being turned down, and that flexible

⁸¹ The Commission's joint research with BIS found that while 77% of mothers had a negative or potentially discriminatory experience during pregnancy, maternity leave or on return to work, only 1% brought their claim to tribunal and that in addition to the introduction of tribunal fees, the requirement to bring a claim within three months of the discrimination happening has also been identified as a major barrier. EHRC/BIS (2016) [Pregnancy and maternity – related discrimination and disadvantage: the experience of mothers](#)

⁸² Nearly three in five parents (58%) in the Working Families' [2019 Modern Families Index](#) reported having a flexible and family-friendly employer would make them more likely to stay. Over half (55%) said it would make them more motivated and productive.

⁸³ Leonard Cheshire (2019) [Disabled workers are being failed by employers](#)

⁸⁴ EHRC (2019) [Our response to the BEIS Good Work Plan consultation on flexible working](#)

working is not available to many workers (58%), particularly those in working-class jobs (64%).⁸⁵ We also believe that **employers should offer and advertise all jobs, including the most senior roles, on a flexible and part-time basis unless there is a genuine business reason that means this is not possible.**

65. Recent reports indicate that many employees are worried their employer will revert to previous inflexible working practices.⁸⁶ We believe that this would be regressive and that both Government and employers need to consider what impact a move toward flexible working has had, both in terms of business delivery, but also in terms of its contribution towards the economy. The Commission welcomes the Government's planned consultation on flexible working and will be reiterating our calls for flexible working as a default day one right.

Childcare

66. The Commission is particularly concerned about the longer term availability of childcare for working parents, and the impact that a reduction on provision may have specifically on women's labour market participation, and gender inequality in the workplace. The availability and affordability of childcare for working parents plays an important role in contributing to the fulfilment of the Convention on the Rights of the Child Article 27 right to an adequate standard of living and their Article 6 right to development.⁸⁷

67. As a result of the closure of schools and nurseries, many parents already faced ongoing difficulties balancing the needs of working and childcare, either because they were expected to work from home, or because they were required to attend work. Unequal division of unpaid labour, including childcare and caring responsibilities for older or disabled relations, means that this is having a particular impact on women. Research undertaken by the Commission showed even prior to the crisis that many mothers struggled to find suitable childcare, or a job that pays enough to pay for childcare.⁸⁸ Lone mother families, which make up 90% of all lone parent

⁸⁵ TUC (2019) [One in three flexible working requests turned down, TUC poll reveals](#)

⁸⁶ Personnel Today (April 2020) [Half of workers expect remote working reversal after Covid-19](#)

⁸⁷ This was included in our [submission](#) to the Committee on the Rights of the Child on the UK's compliance with the CRC. In its [concluding observations](#), the Committee raised concerns about the 'negative effect of the high cost of childcare on children and their family environment'⁸⁷ and recommended that the UK Government assess the impact on children's rights of funding cuts for childcare and family support, and review family support policies to make childcare services available to everyone in need.

⁸⁸ EHRC/BIS (2016) [Pregnancy and maternity discrimination: mothers' experiences](#),

families with dependent children,⁸⁹ are also likely to have been particularly impacted by school closures.

68. From the outset, childcare providers expressed concern about their longer term viability in light of the lockdown⁹⁰ because of narrow profit margins and reliance on parents paying fees⁹¹. A recent survey revealed that 25% of providers thought that it would be unlikely they would be operating in 12 months' time⁹²; another reports that around 15% of providers, offering up to 250,000 places, state that they won't reopen once social distancing measures are ended. If early years' childcare settings are forced to close because of a lack of funding, this will severely undermine women's future participation in the labour market.

69. Evidence also shows that women either leave employment or reduce their hours because they cannot afford childcare fees⁹³. Recent research by the Organisation for Economic Co-operation and Development estimates that the UK has the second most expensive childcare system in the world,⁹⁴ meaning many women decide to work part-time to care for their children themselves, a contributing factor to the gender pay gap. There were also existing concerns about the viability and sustainability of the current system of 30 hours funded childcare, as only half of local authorities in England and Wales have enough childcare available for parents who are working full-time.⁹⁵

70. We ask again for the UK **Government to take steps to address problems with the availability and affordability of childcare, including ensuring adequately funded, flexible and high-quality childcare for all children** both in the immediate as return to work plans are implemented, and in the longer term.

Reform parental and carers' leave

⁸⁹ Office for National Statistics (2019) [Families and Households Dataset](#)

⁹⁰ Professional Association for Childcare and Early Years (May 2020) [PACEY survey reveals devastating impact of COVID-19 on childcare provision](#)

⁹¹ Coram Family and Childcare (April 2020) [Statement from Coram Family and Childcare: nursery closures](#)

⁹² Early Years Alliance (May 2020) [CORONAVIRUS: A quarter of childcare providers fear permanent closure within the year, new Alliance survey reveals](#)

⁹³ Pregnant Then Screwed (February 2020) [Cost of childcare](#)

⁹⁴ OECD (2019) [Net childcare cost for parents using childcare](#)

⁹⁵ Family and Childcare Trust (2018) [Childcare Survey 2018](#)

71. We welcomed earlier commitments to create more family friendly workplaces, and address the gender imbalance in caring responsibilities, and the Commission will shortly be responding to the Government's consultation on carers' leave. We **encourage the Government to make paternity and shared parental leave a day one right for employees, and make similar provisions for agency and self-employed workers.**
72. Fathers increasingly want to play a greater and more active role in bringing up their children, but current parental leave offers are failing to meet this demand because of complexity, ineligibility, low financial incentive, and concerns about employer attitudes. This reinforces gendered assumptions about caring responsibilities, and places a disproportionate burden of childcare onto mothers.
73. Having individual entitlement to parental leave reflects the value of both parents sharing childcare, removes gendered stereotypes, and is particularly important too for women who may be subject to domestic violence or coercive control, whose partners may force particular leave arrangements as a form of abuse. As such, we are also calling for **Government to introduce dedicated non-transferable, flexible 'use it or lose it' shared parental leave for parents with a pay rate that acts as a real incentive to it take-up.** A new system of ring-fenced individual allocation of parental leave will help to support working parents, particularly during this period of uncertainty.
74. Before the coronavirus pandemic, 4.5 million unpaid carers in the UK were caring for someone older, disabled or seriously ill.⁹⁶ The coronavirus has also placed further burden on unpaid carers as a result of the closure and reduction in support services⁹⁷ and has led to concerns being raised by a coalition of anti-poverty, women's and children's charities that individual carers face intolerable financial pressure.⁹⁸
75. At the last UK census,⁹⁹ women were notably more likely to be unpaid carers than men, and recent evidence indicates that there are 2.7 million female informal carers compared to 1.8 million male informal carers¹⁰⁰. As previously set out, we also know that women are more likely to have

⁹⁶ DWP (2019) [Family Resources Survey: financial year 2018/19](#)

⁹⁷ Carers UK (April 2020) [The forgotten families in lockdown: unpaid carers close to burnout during Covid-19 crisis](#) Carers UK, April 2020

⁹⁸ Oxfam et al (April 2020) [Open letter to MPs, MSPs and AMs on carers and poverty](#)

⁹⁹ Office for National Statistics [Census 2011](#)

¹⁰⁰ DWP (2020) [Family Resources Survey: financial year 2018/19](#)

childcare responsibilities. These factors can have a lasting impact through women's careers, and are a major causal factor in the gender pay gap.¹⁰¹

76. The Government **should introduce a new provision for 5 days paid carers leave per annum to provide financial stability to carers**, and prevent them from having to take unpaid leave to provide this vital role. This is in line with EU standards introduced by the EU Directive for Work Life Balance,¹⁰² and would support those who face unexpected caring responsibilities related to Covid-19 or other illnesses in the future.

Sexual harassment

77. Throughout this pandemic, employers continue to owe workers a duty of care. Our research¹⁰³ has shown that the current legal framework in relation to sexual harassment is inadequate and that we need to reduce the burden on individuals to report sexual harassment by requiring all employers to take effective steps to prevent and respond to sexual harassment. There is additional urgency to this as we are aware of concerns that the increase in remote working is leading to instances of online harassment.¹⁰⁴

78. We have urged the Government to **introduce a mandatory duty to take reasonable steps to prevent harassment and victimisation in the workplace, enforceable by both individuals and the Commission**¹⁰⁵ and encourage them to **publish the outcome of last year's consultation and ratify the International Labour Organisation Convention 190 on workplace violence and harassment**¹⁰⁶, so that there is continued progression towards more inclusive workplaces as part of the over-arching Government response to the challenges facing workers as a result of the pandemic.

¹⁰¹ EHRC, 2018 [Fair opportunities for all: a strategy to reduce pay gaps](#)

¹⁰² EU Parliament (2019) [EU Directive on Work Life Balance](#)

¹⁰³ EHRC (2018) [Turning the Tables: ending sexual harassment in the workplace](#)

¹⁰⁴ Centenary Action Group (April 2020) [Written evidence to the Women and Equalities Committee inquiry into Coronavirus and the impact on people with protected characteristics](#)

¹⁰⁵ EHRC 2019 [Our response to the consultation on sexual harassment in the workplace](#)

¹⁰⁶ International Labour Organisation (2019) [C190 - Violence and Harassment Convention, 2019 \(No. 190\)](#)

Further information

The Equality and Human Rights Commission is a statutory body established under the Equality Act 2006. Find out more about our work on [our website](#).

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