

An unequal crisis

Why workers need better
enforcement of their rights



August 2020

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Summary

Rosie has asthma and faces potentially higher risks from coronavirus, so has stayed at home where possible since the pandemic began. Lockdown meant that the cafe where she's worked for the last 7 years shut down, but it's now reopened. She'd not returned to work immediately out of concerns for her health. But her employer just told her she's been selected for redundancy.

Rosie asked whether she had been picked because she hadn't felt safe returning before. The employer's response was non-committal - possibly, possibly not.

We're helping people like Rosie once every two minutes with a redundancy problem. In July, we helped six times the number of people with a redundancy problem than we had the previous year.

1 in 6 (17%) of the working population are facing redundancy. But our findings show this crisis is also being faced unequally:

- **1 in 4 disabled people** (27%) are facing redundancy, rising to 37% for those people whose disability has a substantial impact on their activities
- **1 in 2 people who are extremely clinically vulnerable to coronavirus** (48%) are facing redundancy
- **2 in 5 people with caring responsibilities** (39%), either for children or vulnerable adults, are facing redundancy
- **3 in 10 people with children under 18** (31%) are facing redundancy, compared to less than 1 in 10 (7%) of those who don't have children under 18.

This report summarises the redundancy problems we're supporting people with in this jobs crisis. Most employers want to do the right thing, even in these difficult times. But a picture is emerging in our data that many are not. We set out evidence on three key areas of employment rights in the redundancy process where we are concerned: fair redundancy processes, automatically unfair reasons for redundancy, and discrimination.

Demand for our advice relating to people's rights at work is soaring. The number of clients we're providing support to for issues with selection for redundancy has soared by 370%, while demand for our advice pages on fair redundancy processes has increased by over four times.

Given the nature of the crisis, discrimination is of particular concern. Employers have had to transform their workplaces to make them safe for people to return to. These changes have often needed to be particularly dramatic for people who are vulnerable or extremely vulnerable to coronavirus. Employers may have to put additional measures in place or offer different roles entirely for people who face higher risk. Similarly, many people have greater caring responsibilities than ever before, with inevitable spillovers

into their work. These factors may explain why certain groups are at such higher risk of redundancy.

1 in 8 employees working outside the home think their employer has not put adequate measures in place to keep them safe from coronavirus. Our advisers are seeing worrying cases where pregnant women feel they have been selected for redundancy because they need more stringent health and safety measures and employers offering replacement roles which disabled workers feel they cannot do safely. Demand for our discrimination advice pages has increased four-fold.

Taken together, these findings suggest this pandemic could cause a worrying reversal of highly positive labour market trends. Between 2013 and 2019, more than 1.3 million disabled people found work, and the gap between the disabled and non-disabled employment rate fell by 5.6 percentage points. The number of partnered women with children in employment has increased by 5 percentage points. Failure to protect these workers from discrimination in the workplace could reverse these trends.

When employers do break the rules, the government needs to have people's backs. Enforcement needs to be well funded and fit for purpose, so workers have somewhere to go when they're treated unfairly. But - while funding for certain agencies has increased - the net funding for enforcing workers' rights has declined by £120m in the last ten years, with funding for the Equality and Human Rights Commission alone three times lower than it was in 2009/10. The main alternative route for enforcing your rights at work - taking your employer to an employment tribunal - is also likely to be extremely difficult, as the tribunal system has been highly disrupted during the pandemic. Going into this crisis, there was a backlog of 400,000 cases, which will only increase with the scale of redundancies we face.

We are facing the worst jobs crisis for a generation. Employment rights have never been more important, but also never more difficult to enforce. The government has rightly recognised that the enforcement system in the UK is in need of reform. Last year, it committed to ending the fragmentation by establishing a Single Enforcement Body for employment rights. People need a single point of access where they can go and expect to have their rights enforced. We recommend that the government:

- **Fast track its plan for setting up a single enforcement body**, with the powers and resources needed to act as an effective defender of people's rights at work
- While that body is set up, **invest emergency funding into the existing enforcement bodies**, to ensure people are treated fairly during this unprecedented crisis.

1. A large wave of redundancies is coming

The labour market is already in a perilous state, kept afloat by the Job Retention Scheme, the single biggest peacetime intervention in the economy in history. But even that has not proved enough to hold all jobs in stasis. Employment had fallen by 650,000 in June.¹ The number of people claiming benefits who were not in work rose to the highest levels for 20 years. And the total number of hours worked has fallen by almost 9%, the fastest decline on record. Every indicator seems to break new records in highlighting how profoundly the coronavirus pandemic has damaged the economy and people's jobs.

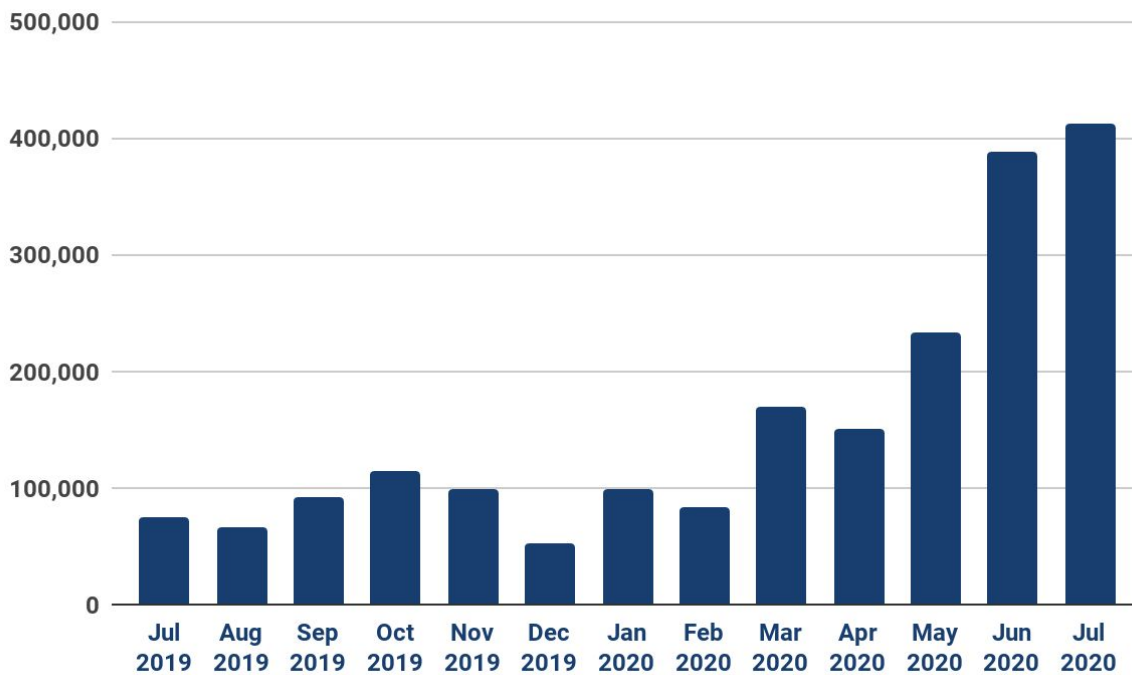
Alongside this sobering picture, we can add our own insights from the problems people are coming to us about. The retention scheme formally runs until October, but employers facing the requirement to make contributions from this month and statutory timescales for redundancies will feel the financial pressure to make decisions now.

i. Our data suggests a challenging outlook for the labour market

Prior to the announcement of the Job Retention Scheme, we experienced a huge spike in interest in our redundancy pay web pages, indicating many people were anticipating unemployment. But from the moment the scheme was announced, the Job Retention Scheme commanded total attention - for 72 straight days, advice on being furloughed was the most viewed page on our website. However, as the furlough scheme begins to be withdrawn, the number of visits to our redundancy pages has been rising. In July, we recorded more than 410,000 visits to our redundancy pages, compared to just over 70,000 this time the previous year and nearly 30,000 more than the previous month.

¹ [Labour market overview, UK](#), Office for National Statistics, July 2020

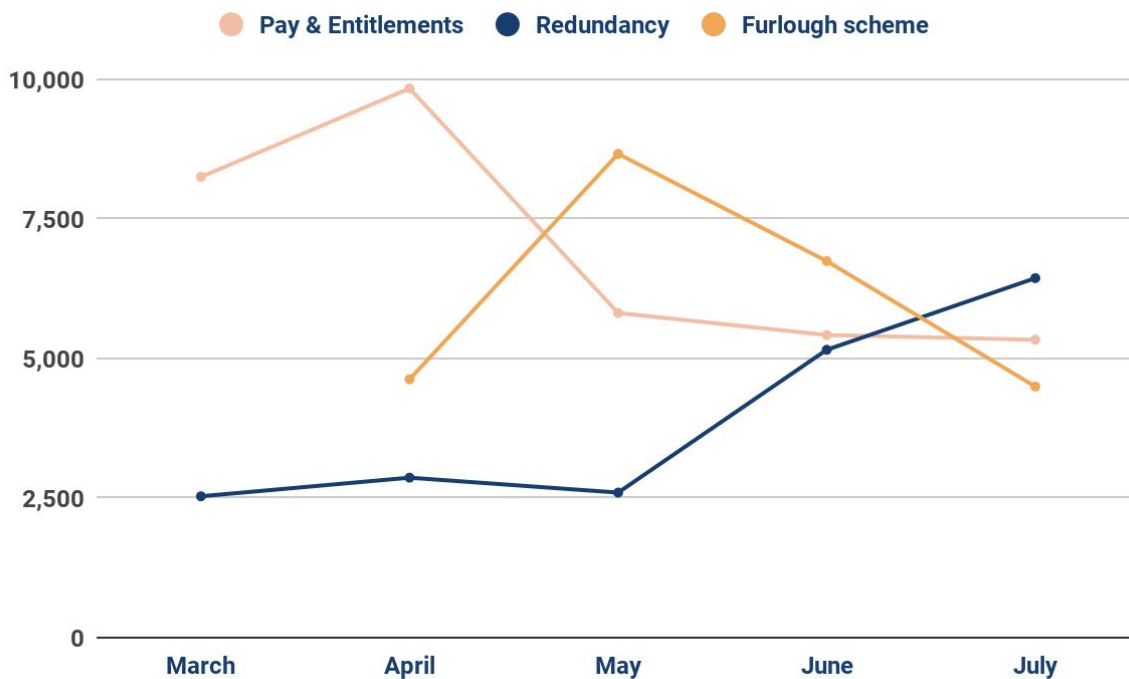
Figure 1. Trends in number of views of redundancy advice web pages



The numbers of people seeking one-to-one advice tell a similar story. As Figure 2 shows, in March the employment issue we gave the most advice on was ‘pay and entitlements’, an issue which normally dominates our employment advice. In April that started to change when we introduced a ‘furlough scheme’ category, to cover clients asking for advice about the Job Retention Scheme. By May, furlough enquiries were the most common type of advice we gave on employment.

Since the announcement of the government’s intention to wind down the furlough scheme, demand for redundancy advice has been growing and it is now the employment issue we advise on the most. In July 2020 we provided one-to-one support to 6 times as many people as we saw about redundancy this time last year (6,000 vs 1,000) - and 125% more than in April.

Figure 2. 2020 client count with different employment issues



ii. Disabled people and those with caring responsibilities are most at risk of redundancy

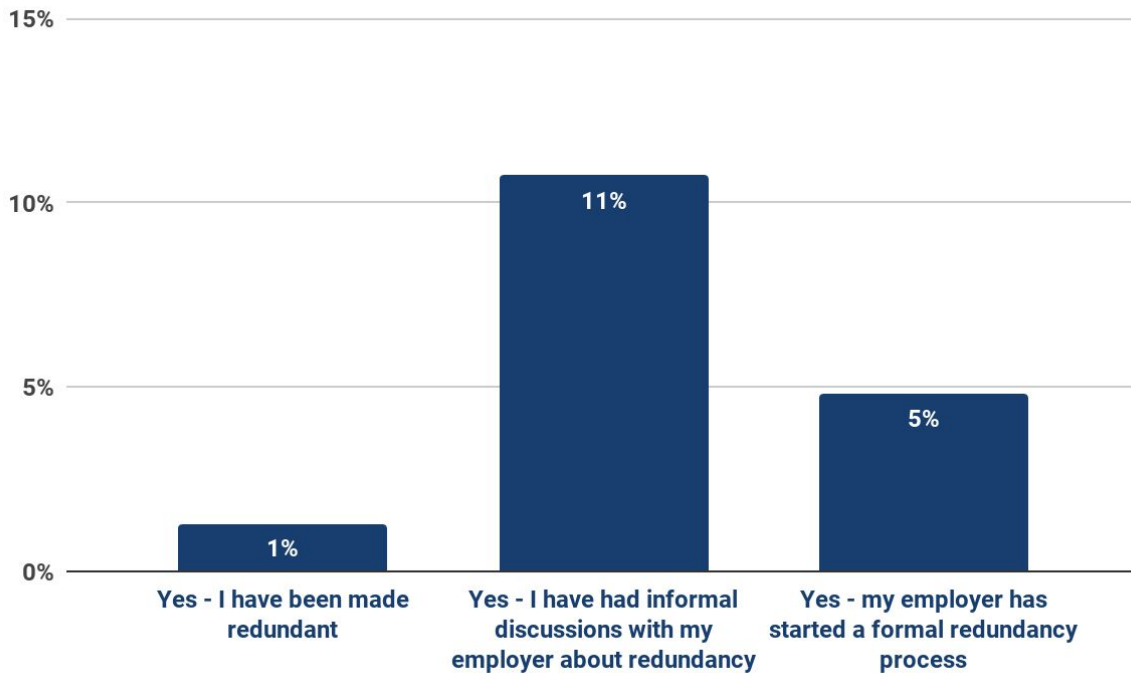
As the government takes the first steps towards rolling back the furlough scheme we can expect these figures to increase. No one can entirely accurately predict how many redundancies there will be. However, a survey of 6,015 people conducted for Citizens Advice by Opinium gives us some indication of who is most at risk.²

1 in 6 (17%) of the general population, excluding the retired and students, are facing redundancy. Within this group, 1% have already been made redundant, 5% are in a formal redundancy process with their employers and 11% have had informal discussions with their employer about redundancy.³

² Fieldwork 29th June-8th July 2020. Data was weighted to be representative of the UK.

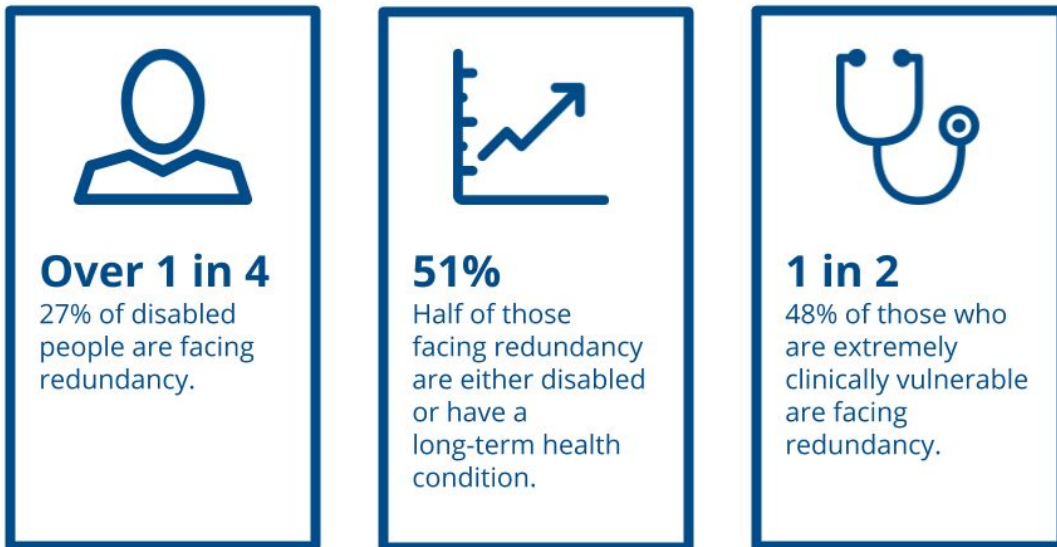
³ Throughout this report, 'facing redundancy' is used to refer to people who have already been made redundant, are in a formal redundancy process or who have had informal discussions with their employer about redundancy.

Figure 3. Have you either been made redundant in the past 3 months, or are you in the process of being made redundant now?



However, although the risk is widespread, it is not being felt equally and some groups are facing redundancy at far higher rates - most notably, disabled people and those with caring responsibilities.

For those who identify as having a disability or long term health condition (32%, excluding retired and students), over 1 in 4 (27%) are facing redundancy. For those whose disability substantially limits their day-to-day activities (the formal definition of disability under the Equality Act), the picture is worse. For all people in this category, the percentage facing redundancy is 29%, rising to 37% for those whose disability limits their day-to-day activities a lot.

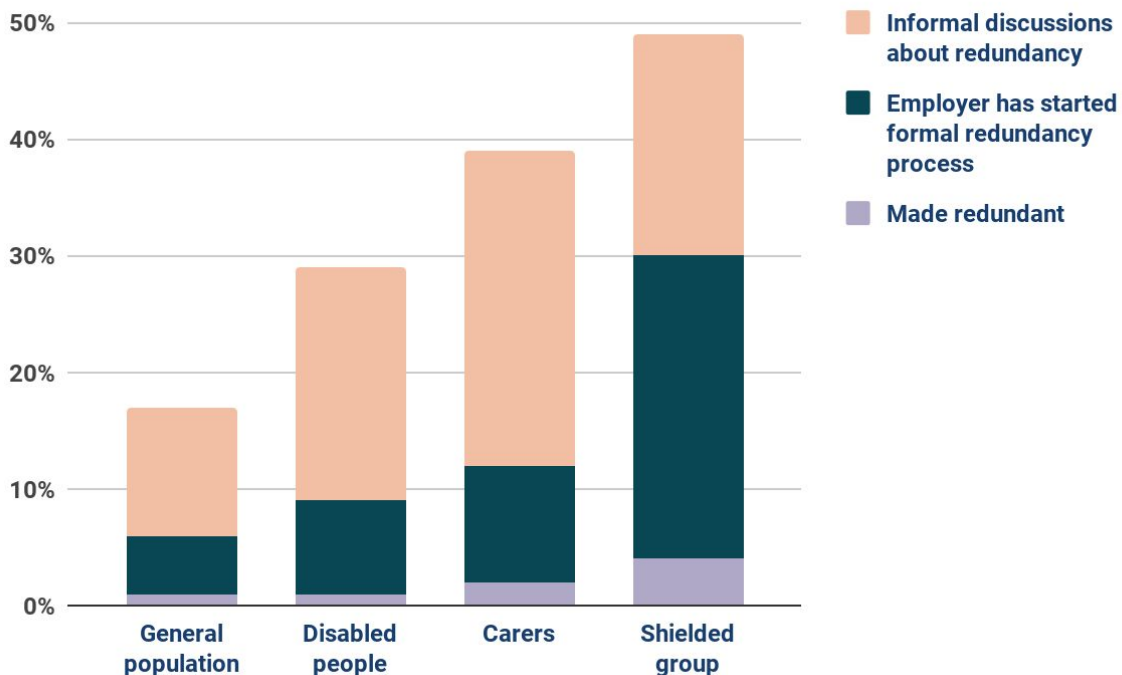


A full half of those who are facing redundancy are either disabled or have a long-term health condition (51%) or have a disability that limits their day-to-day activities (48%).

For those who identify as clinically vulnerable or extremely clinically vulnerable, the picture gets even worse. For those who are clinically vulnerable, 45% are facing redundancy and for those who are extremely clinically vulnerable (the formerly 'shielding group') 48% are facing redundancy.

People with caring responsibilities, for children or vulnerable adults, are also facing redundancy at far higher levels than the general population, 2 in 5 (39%) are facing redundancy. Over 3 in 4 (76%) of all those facing redundancy have children under 18.

Figure 4. Percentage of disabled people, carers, and shielded group facing redundancy against the working population⁴



The forthcoming waves of redundancies are likely to fall disproportionately on carers and disabled people. There are several possible reasons for this disparity. In part it may be because both groups are more likely to be working in sectors which are particularly vulnerable to the economic crisis. For instance, disabled workers are around 17% more likely to work in retail occupations than non-disabled workers.⁵

However, there is also a risk that unfair and discriminatory practices by employers when selecting people for redundancy will contribute to these unequal outcomes. Although there is a legal framework to prevent this, our experience advising clients shows that unscrupulous employers often don't keep to these rules and that the effects of the pandemic may well exacerbate this long standing problem - as the next section will explain.

⁴ Base: All UK adults, excluding retired people and students

⁵ Office for National Statistics, [The employment of disabled people 2019](#)

2. Workers' rights are at risk of not being met during this crisis

Workers in the UK have a range of protections to prevent unfair or discriminatory redundancy processes. Employers have a legal obligation to follow a 'fair redundancy process' for people who have been employed for more than two years, and eligible employees can seek a legal remedy if this is not followed. All workers, regardless of length of service, have a right not to be discriminated against, and are protected from being fired for several reasons which are automatically unfair.

Unfortunately, our experience at Citizens Advice even before the pandemic is that this doesn't always happen. Since the beginning of the crisis we have seen an increasing number of people come to us with problems with the redundancy process. As described above, the number of clients we have seen with general redundancy problems has increased by 270% compared with last year (or 3.7 times).

The number of clients we've seen with a selection for redundancy issues compared to this period last year has increased by over 4.5 times. If we compare just July 2020 to February 2020, that increase is sevenfold.

Figure 5. Annual percentage increase in advice on employment, redundancy and selection for redundancy since the lockdown



This is a substantial change from the type of redundancy problem which clients normally come to us with. Making up almost a quarter (23%) of redundancy issues, 'selection for redundancy' is now the largest problem, replacing 'redundancy pay'. This increase in clients going through the redundancy process not only indicates the scale of the crisis currently facing us, but gives us some insight into how employers' practice

may, either through lack of experience and knowledge, or deliberate action, fail to follow the law.

The following section explains the rights people have when they are being selected for redundancy, and describes where we think there is a risk of non-compliant behaviour by employers. This is based on a combination of data on the types of queries coming to Citizens Advice through both our website and local Citizens Advice, and a review of 125 evidence forms submitted by our advisers on selection for redundancy issues with a further 164 submitted on discrimination issues.⁶

i. Workers have the right to a fair redundancy process, but we are seeing troubling evidence that this is being ignored

Employees who have been with their current employer for more than two years can claim unfair dismissal if there has not been a 'fair redundancy process'. Employers can decide the precise details of their procedures but it must at least contain the following elements:

- In a small scale redundancy, anyone who might be affected by a redundancy process must be invited to at least one individual consultation meeting before the final decision is made
- Employees must be informed how long the process will take, how people will be selected and how they can appeal if they are selected
- Selection criteria should be objective and transparent, and employees made redundant should be offered suitable alternative work if it exists
- If more than 20 people are being considered for redundancy there should be a group consultation starting at least 30 days before anyone's job ends. If more than a hundred people are being considered the consultation should start at least 45 days before anyone's job ends

Alongside the increase in advice around selection to redundancy, we have also seen a large increase in people accessing our 'fair redundancy process' web page. Moving from just over 2,400 weekly views in the first week of March, demand for this page peaked at almost 11,500 in the first week in July.

⁶ Evidence forms are one tool that our advisers can use to flag cases that are of concern or relevant for policy change. Selection for redundancy evidence forms were submitted between July 1st and July 28th. Discrimination forms were submitted between May 18th and July 27th.

Figure 6. Weekly website visits to 'Fair redundancy process'



In part, this will simply be a reflection that many more people are going through a redundancy process at the moment. However, the evidence forms submitted by advisers indicates lockdown has increased the risk of bad practices by employers. Although some people who are being made redundant are currently working as normal, in the vast majority of cases our advisers highlighted clients who were either on furlough or some other kind of leave. Our advisers are finding that not currently being in the workplace creates several potential problems for people facing redundancy:

- Employees not being offered meetings when they were entitled to them as part of a consultation process. People have been told they have been made redundant by phone or letter, without any chance to understand what process has been applied
- Staff who were entitled to apply for new roles not being made aware that suitable positions were available - when other employees, not on furlough, were given the opportunity to apply
- Furloughed staff being given less information than staff who are still at work, or subject to a different process despite being in similar roles.

Case Study: Ryan had worked for his company for five years when lockdown began, most recently as an assistant manager. As soon as the Job Retention Scheme was announced in March he was furloughed, along with most of his colleagues. At the end of June, while still on furlough, he received a letter saying he would be made redundant from 30 July. He accepted this, as he could see lockdown had vastly reduced the amount of business his company was able to do. However, later he was surprised to find that a colleague at the same level as him who had already returned from furlough had been given an alternative job that Ryan hadn't been kept informed about.

Redundancy procedures are particularly important because they ensure that employees who have particular support needs (such as disabled workers or carers) can discuss them. It also makes the reasoning behind decisions explicit, making it easier to challenge discrimination later. It also makes it easier for employers to avoid unintended discrimination, as having a process, structure and articulated reasons should mean employers think about whether their approach is leading to the selection of all employees with certain characteristics (all carers, for example). It is concerning if furloughed workers are not able to engage in the process on the same basis as non-furloughed workers.

Evidence forms also included cases where furloughed workers have been explicitly targeted for redundancy, or informed that all furloughed workers will be let go when the scheme ends. Such policies are likely to have disproportionate impact on people who have needed to shield or who have caring responsibilities, many of whom accepted furlough because other care wasn't available or the medical advice was not to go into work.

Case Study: Kristina's been with her employer for 9 years. When schools closed at the start of lockdown, she had to stay at home to look after her 3 young children. She took leave to start with and then offered to work from home. But when the government scheme was announced, her employer furloughed her instead. In June, Kristina's manager asked when she could come back to work. Kristina said she'd contact her children's school and ask if they could return early. But before she got a reply, she received a letter from her employer. Kristina was made redundant. The notice period was half what she was entitled to and there had been no prior notification or consultation. Kristina appealed the decision. Her employer said that Kristina had misused the furlough scheme - she should have been ready to return to work when she was needed - they said it wasn't intended to cover her childcare. She's since found out that two other women in her office have been made redundant.

ii. There are several reasons for being made redundant which are automatically unfair, but we're seeing some employers ignore them

Employers cannot use automatically unfair reasons to select employees for redundancy. Specifically, an employee can not be dismissed for requesting, using or promoting other workplace rights such as:

- Asking for one of their rights at work - for example asking for the minimum wage, holiday or payslips

- Taking action about health and safety - for example making a complaint
- Being a whistleblower - i.e. disclosing information about the employer doing something unlawful
- Working part-time or on a fixed-term contract
- Refusing to work on a Sunday if they work in a shop
- Joining a trade union or going on an official strike

Visits to our fair reasons for redundancy page have also risen during the pandemic, from around 1,250 visits in the w/c March 1st, to just under 6,500 in the first week of July.

Figure 7. Weekly website visits to 'Fair reasons for redundancy'



These protections exist to ensure that the threat of redundancy can't be used to undermine other rights at work. Both the process of locking down and reopening the economy have resulted in new practice in many workplaces - from changed shift patterns, to the installation of new health and safety equipment, and, of course, the introduction of furlough pay.

We have seen increases in enquiries relating to several of these issues over the pandemic period. Over two and half times the number of clients have come to us with issues relating to health and safety at work compared with that same period last year. We are also seeing 85% more parents and carers asking for help with requesting flexible working arrangements.

Figure 8. Annual percentage increase in advice on flexible working, whistleblowing, and health and safety since the lockdown



During such a rapid period of change it is vital that employees are able to discuss and enforce their rights without fear of repercussions. Unfortunately, our case review revealed several examples of clients who felt that they had been targeted for redundancy for these reasons, including:

- Parents who had made flexible working requests
- Furloughed workers who had queried the amount they had received, or refused to work while on furlough
- Clinically vulnerable people who had complained about the health and safety measures put in place when returning to work

The final point becomes particularly relevant as the economy unlocks and shielding is paused - the process of returning to work will raise many issues around employers' responsibilities. Most crucially, employers have a new responsibility to make workplaces 'Covid Secure' before they allow people (especially clinically vulnerable people) to return.⁷ Our polling indicates that not all employers are following these procedures: 1 in 8 (13%) of all employees working outside the home thought that their employer had not put adequate measures in place to keep them safe from coronavirus at work.

Case Study: Yasmin has multiple health conditions, including chronic asthma, but these had not affected her attendance record throughout the 13 months she had worked at her company before lockdown. In April she was briefly furloughed along with the majority of the rest of staff. When she came back she

⁷ [Working safely during coronavirus \(COVID-19\) - Guidance - GOV.UK](https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19)

had a new manager, and in their first meeting Yasmin informally complained about the safety measures that had been put in place while they were away. A month later she was called into a meeting with her manager and HR and told that her attendance and timekeeping were not adequate and she would be dismissed immediately. No notes were taken throughout the meeting and Yasmin wasn't given any written information on the reasons for her dismissal.

These decisions may contribute to the higher job leaving rates among disabled people and carers. People who have been shielding will require more rigorous health and safety practices than those who have not. Carers will have greater need to make flexible working requests than those without these responsibilities. These laws exist in part to make the workplace more accessible for both these groups, and employers' approach to redundancies need to take this into consideration.

iii. Discrimination is illegal and the pandemic may be making it worse

Under the Equality Act 2010 workers are protected from being discriminated against on grounds of: race, disability, sex, religion or belief, pregnancy and maternity, being married, sexual orientation, transgender status or age. Crucially this applies to all workers, regardless of employment status and length of time they have worked for their employer.

Discrimination can be direct or indirect. Direct discrimination is when someone is treated less favourably than someone else because of a protected characteristic. Indirect discrimination, is when a policy or practice is applied to everyone equally, but places members of a specific group who share a protected characteristic at a disadvantage in comparison with people who are not in that group.

Visits to our 'discrimination during redundancy' webpage have increased significantly during the lockdown - increasing from just under 1,000 views per week in early March to peak at well over 4,000 views in the first week of July.

Figure 9. Weekly website visits to 'Discrimination during redundancy'



People are clearly worried about discrimination, and the evidence sent in by advisers indicates that they are right to be. Our review of evidence forms found many cases that parents, mothers, and those who had recently returned from maternity leave, felt unfairly singled out for redundancy. Cases our advisors have flagged include:

- Pregnant women who have been discriminated against by being made redundant before taking maternity leave
- Mothers who have returned to work but have been told that they would be assessed on performance during a time that included when they were on maternity leave
- Pregnant women who had felt they had been selected because they need more stringent health and safety measures, and parents who need more flexible hours for childcare

Case Study: Evelyn is pregnant and has been with her employer for 3 years. Due to coronavirus, her place of work closed but she was not furloughed and had to claim universal credit. She contacted her employer to ask about maternity leave and maternity pay and was told she did not qualify as she had not been working during the period of time her place of work was closed. She was dismissed by email without notice just hours later.

Case Study: Lauren is 15 weeks pregnant. Before the pandemic she was working for a nursery looking after children ages 2-4. She has been furloughed so far during the pandemic but her employer has now said she must return to work. Lauren has told her employer that she's pregnant and doesn't feel safe returning. They have refused to offer alternative duties or take steps to make her feel safe. They have refused to extend her furlough, saying if she doesn't return to work she will lose her job.

The evidence forms also highlighted a number of cases of disabled people, especially those who have been shielding, being discriminated against. These included:

- Employers creating a 'redundancy pool' (a group of people who are being considered for redundancy) which solely contained people who had previously taken time off for health reasons
- Employers offering replacement roles which the employee could not do safely, while not allowing them to apply for more suitable roles
- Employers refusing to make reasonable adjustments to allow covid-safe work

Case Study: Rosie is asthmatic and, since the start of lockdown, has been following government guidance to reduce her risk of getting coronavirus. She's been staying at home where possible. This has included not going into work - a café which she's worked in for the last 7 years. Rosie's employer recently informed her that she's now been selected for redundancy. At the first meeting, she asked whether she would have been picked if she'd come into work despite her concerns for her health. The response was non-committal - possibly, possibly not. Rosie has come to Citizens Advice to find out if her selection for redundancy was discriminatory.

There is a risk that many members of the shielded group may not be as quick to identify potential discrimination as Rosie. 2 out of 3 (66%) of the shielded group consider themselves disabled.⁸ Nevertheless It is likely that equality law still applies to those shielding who don't identify this way. The Equality Act defines disability as an impairment which has a substantial and long-term adverse effect on the ability to carry out normal day to day activities' - a bar which being extremely clinically vulnerable to coronavirus could well meet. However, neither employers nor employees may realise that the law applies to this group.

Disability and maternity discrimination are not new problems, but as the cases above show, the pandemic has created an environment where they are much more likely to occur. In addition to direct discrimination, there is a risk that selection criteria used for redundancy may indirectly discriminate against both pregnant women and disabled people. If attendance or performance during the pandemic is included as a criteria for

⁸ Opinium surveyed 6,015 adults online, between 29 June and 8 July. Data was weighted to be nationally representative of the UK.

selecting who should be made redundant, people who need to shield and those with caring responsibilities will be placed at an automatic disadvantage.

Despite there being a clear framework to ensure redundancy processes are fair and non-discriminatory, employers can fail to follow these rules. The evidence submitted by our advisers indicates that this will not only continue during the forthcoming wave of redundancies, it may become worse. In particular pregnant women, new mothers and disabled people seem likely to experience unfair treatment, not least because they face greater barriers returning to the workplace than some of their colleagues. As carers and disabled people already face redundancy at far higher rates than the general population, clear action is needed to ensure that employers keep to the law. Unfortunately, as the next section will suggest, the current enforcement system is not up to the task.

3. The UK employment rights enforcement system is not up to challenge it is about to face

Legal rights need to be enforceable to have the desired impact. Many employers will follow the law because it's the right thing to do. But our extensive legal framework for redundancy will only succeed in protecting all workers if employers are aware of the law and know that there is a good chance that they will face consequences if they break it.

Even before the pandemic the UK's system for enforcing employment rights was ineffective. The majority of work rights are not enforced by any public body. This means that people who have experienced an issue at work often have no one to report it to, and no one who will investigate it. The public enforcement activity that does occur is split between 6 different organisations all of which have differing powers.⁹

Table 1. Employment enforcement agencies

Agency	Responsibilities	Investigate every complaint?
The HMRC National Living Wage Compliance Team (HMRC NLW)	Minimum and National Living Wage	Yes
HMRC Statutory Sick Pay disputes Team (HMRC SSP)	Statutory Sick pay	No
Gangmasters and Labour Abuse Authority (GLAA)	Licensing employers in Agriculture, Horticulture and Shellfish gathering and investigating labour exploitation	Yes
Employment Agency Standards Inspectorate (EASI)	Employment Agencies	Yes
Health and Safety Executive (HSE)	Health and Safety law	No
Equality and Human Rights Commission (EHRC)	Equality and Human Rights law	No

⁹ Citizens Advice, [The need for a Single Enforcement Body for Employment Rights](#) (2019)

Many, but not all, of the key rights mentioned in this report are among those which the state enforces. While there are no official bodies ensuring that redundancy consultation periods are carried out as required, or that people are not dismissed on automatically unfair grounds, both health and safety and equality law are enforced by the Health and Safety Executive (HSE) and Equality and Human Rights Commission (EHRC) respectively.

There are also two bodies responsible for enforcing employment rights in certain sectors: the Gangmasters and Labour Abuse Authority which looks after the rights of workers in agriculture, horticulture and shellfish gathering, and the Employment Standards Agency Inspectorate (EASI) which regulates employment agencies.

It is however questionable whether any of these bodies will have the capacity to take enough action to meet the challenges they will face in the coming months. The past ten years have seen the budgets of three out of four of these agencies decreased considerably. In particular the EHRC's budget has reduced by nearly two thirds, from £55 million in 2009/10 to £18.3 million in 2018/19. The Health and Safety Executive budget has fallen almost as dramatically in the same period - 45%, from £239 million to £126 million, though they have now been promised access to an additional £14 million.

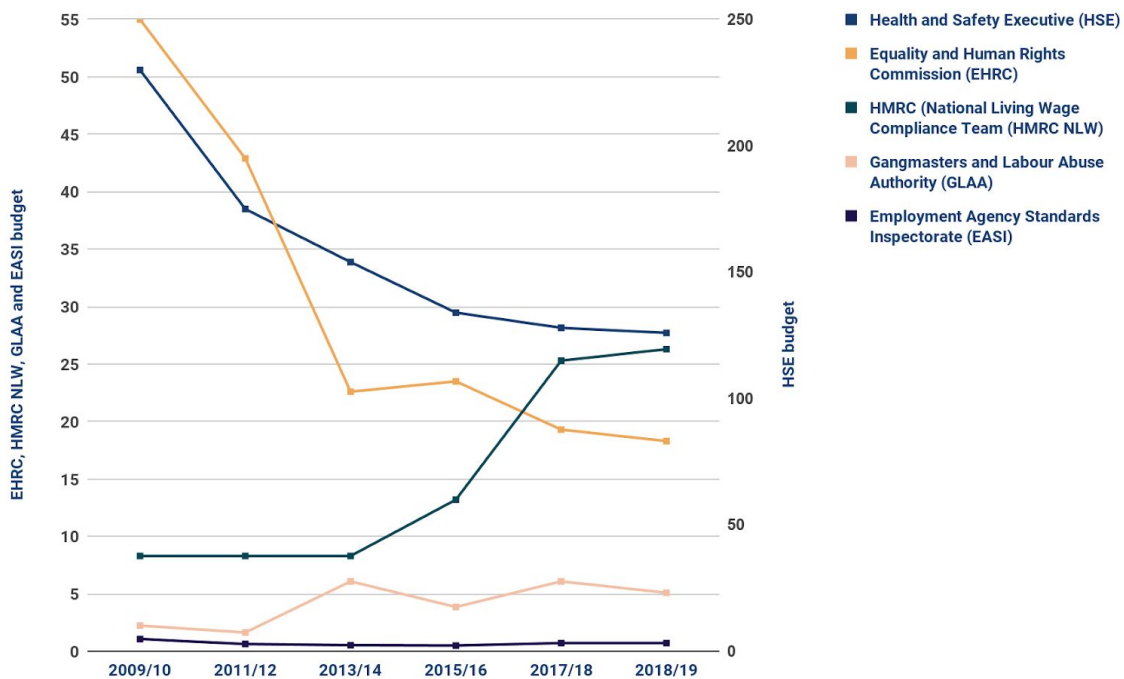
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Table 2. Budgets for enforcement agencies

	Budget (£ millions)				
	Health and Safety Executive (HSE)	Equality and Human Rights Commission (EHRC)	HMRC (National Living Wage Compliance Team (HMRC NLW)	Gangmasters and Labour Abuse Authority (GLAA)	Employment Agency Standards Inspectorate (EASI)
2009/10	230	55	8.3	2.24	1.073
2011/12	175	42.9	8.3	1.64	0.638
2018/19	126	18.3	26.3	5.1	0.725

¹⁰ [New guidance launched to help get Brits safely back to work](#), May 2020

Figure 10. Public enforcement body budgets 2009/10-2019/20



In this context it is unclear whether any of these four bodies will be able to take sufficient preventative action. Agency workers have very limited redundancy rights, so the EASI has little role it can play in ensuring redundancy processes are fair. Similarly, the GLAA’s work concentrates on the most egregious violations of labour rights, in the most informal parts of the economy. It is highly unlikely to be able to take substantive action to ensure fair redundancy processes.

Both the EHRC and HSE do have the ability to take significant enforcement action. However neither are obliged, or resourced, to consider every complaint made. In 2019/20 the EHRC was able to take just 79 enforcement and litigation actions, which included non-employment related discrimination.¹¹ Such activities can be influential, either by establishing relevant case law or setting clear examples to other employers. They do not however represent a reliable method through which people who have been discriminated against can seek enforcement from the state.

In this patchy enforcement landscape, the default way for employees to seek redress is to take their employer to an employment tribunal. The tribunal system is a vital route for allowing employees to enforce their rights, but, as a future report will set out in more detail, it is unlikely to be able to provide justice on the scale and pace needed to deal with the employment cases arising from the current jobs crisis. The process is long

¹¹ Equality and Human Rights Commission Annual Report and Accounts [2019/20](#)

and complicated for individuals to navigate. Before the pandemic, there was already a backlog of over 400,000 cases, which had been rising for 5 years.¹²

i. Without urgent action the current wave of redundancies are likely to increase the inequality faced by mothers and disabled people

The current crisis is unprecedented in recent times. The sheer number of redundancies that we expect to see is vast, and currently there is no organisation that has the resources or powers to take the direct action needed. Without further action large numbers of people are likely to be left with little chance of accessing justice, and the inequalities in the labour market will get worse.

The aftermath of the last economic crisis saw surprisingly high levels of employment, with 3 million more people in employment in 2019 than just before the crash in 2008. Much of this growth was driven by higher employment rates among groups which have had historically low labour market participation. For instance the number of partnered women with children in employment has increased by 5 percentage points over the last decade.¹³ Similarly in the final quarter of 2019 the percentage of working age disabled people who were employed hit an all time high of 54.6%.¹⁴

The impact of coronavirus looks set to turn back this progress. It will also have a long term effect on the pay and employment prospects of the individuals affected. It is estimated that women pay a 2% pay penalty for every year they spend outside of the labour market.¹⁵ Whereas disabled people are twice as likely to be unemployed after an absence from the labour market of 12 months than non-disabled people.¹⁶

Between 2013 and 2019 more than 1.3 million disabled people found work, and the gap between the disabled and non-disabled employment rate fell by 5.6%. The government made a welcome commitment in the most recent Queen's Speech to reduce the disability employment gap still further, reaffirming their goal of seeing an increase of 1 million disabled people in work between 2017 and 2027.¹⁷ It is important that this crisis does not reverse the important progress the government has made already.

¹² Ministry of Justice, [Employment Tribunal statistics](#)

¹³ [Feel poor, work more • Resolution Foundation](#)

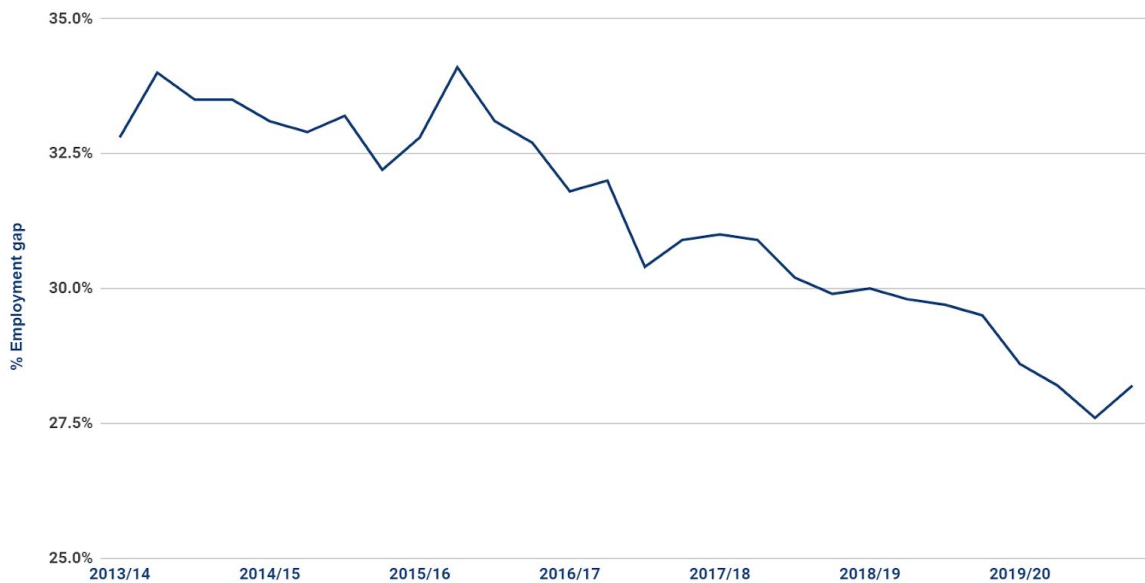
¹⁴ ONS [Update on the Labour Market Status of Disabled People](#)

¹⁵ [Gender wage gap grows year on year after childbirth as mothers in low-hours jobs see no wage progression](#), Institute for Fiscal Studies, 2016

¹⁶ [Good work: the Taylor review of modern working practices](#)

¹⁷ [THE QUEEN'S SPEECH 2019 19 December 2019](#)

Figure 11. Disability Employment Gap 2013-2020



The 2019 Conservative manifesto also emphasised that while in government they had already reformed the law to give women returning from maternity leave greater protections from redundancy. For the government to maintain this progress, and meet the ambitious targets they have set themselves, urgent intervention is required.

In the interim, the government should temporarily increase funding for enforcement agencies. It will be very difficult for any enforcement bodies to take comprehensive, effective action in light of the scale of this jobs crisis without additional funding in place. This investment will help ensure people are treated fairly during this unprecedented crisis.

The government has previously rightly recognised that the enforcement system in the UK is deficient. Last year it committed to ending the fragmentation by establishing a Single Enforcement Body for employment rights in the 2019 Queen's Speech. It should fast track this plan, giving the body the powers and resources needed to act as an effective defender of people's rights at work.

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