

# UNIONLINE NEWS

Legal Services Newsletter  
for GMB and CWU Members  
and their Families

## Separate court entrances FOR DOMESTIC ABUSE VICTIMS



**Domestic abuse victims will access court through a separate entrance so they do not have to cross paths with their alleged abuser under family court reforms announced by the government.**

The Ministry of Justice pledged a 'major overhaul' of family courts after publishing the findings of an expert-led review on the risk of harm to children and parents in private law children cases. Justice Minister Alex Chalk said the 216-page final report 'lays bare many hard truths about long-standing failings'.

The review panel, which included senior members of the judiciary, academics and representatives for the Association of Lawyers for Children, received more than 1,200 responses to a call for evidence.

The report states that many mothers were worried about being confronted by their abuser at court when they were obliged to be in the same building and enter or exit at similar times. One mother's lawyer was physically attacked by the father at court. The attack was witnessed by the court security guards but the judge was reported to have set it aside.

Parents told the panel that they found

the experience of reliving their abuse in court distressing, dehumanising and humiliating. Many said that the responses of judges and magistrates to their allegations of abuse, and to their distress at court, left them feeling belittled, berated and demeaned. There were reports of confidential information being disclosed, for example information about sexual assault counselling, which in the criminal setting would be prohibited under rules of evidence.

The report says the adversarial system rests on an assumption of equality of arms. 'The reality in private law children proceedings is that many parties are either unequally armed (one party is legally represented and the other is not) or unequally unarmed (both lack legal representation so power, intimidation and control in the relationship is not mitigated).'

The family court's 'pro-contact culture' results in orders which put children and protective parents at risk of often severe harm.

As well as separate court entrances, the ministry says victims will be given separate waiting rooms and protective screens to shield them from their alleged abuser in

court. Judges will more easily be able to issue barring orders preventing abusive ex-partners from repeatedly dragging their victims back to court. A domestic abuse court pilot will consider family and criminal matters in parallel. The presumption of 'parental involvement' encouraging a child's relationship with both parents will be reviewed.

The Domestic Abuse Bill, currently making its way through parliament, will end the cross-examination of domestic abuse victims by their alleged perpetrators.

### Consultation: Workplace Laws for Domestic Abuse Survivors

The government is seeking views on what workplace laws could be used, or introduced, to support the survivors of domestic abuse within the workplace. The availability of flexible working, unplanned leave and other employment needs will be examined, along with options such as paying wages to a different bank account or making emergency salary payments available for those in real financial hardship.

**The government is inviting written submissions by 9 September 2020.**

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# HMRC Furlough Audits

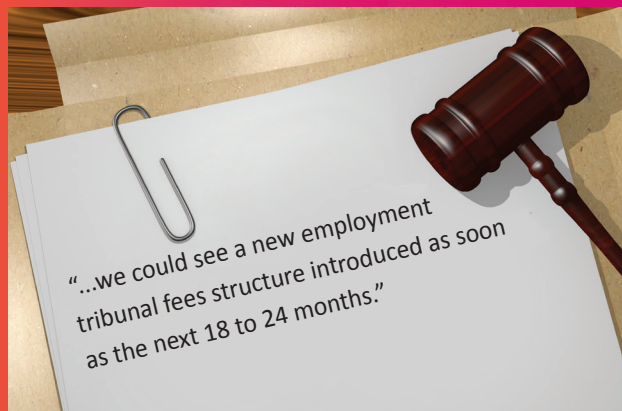
**The Coronavirus Job Retention Scheme (CJRS) is costing the UK government an estimated £14 billion a month and it is therefore little surprise that legislation will shortly be passed to allow HMRC to claw back funds from employers who have wrongly claimed under the Scheme.**

It is entirely proper that employers which have used the Scheme fraudulently, for example, by knowingly over-inflating wage figures, failing to pay the funds on to staff or keeping employees working during furlough, should be held to account. However, given that the guidance to the Scheme varied at times between the unclear and the completely contradictory, and that the calculations (especially post-June under the flexible component of

it) have been quite complex, there will be companies that will say that they have not unknowingly overclaimed. There is likely to be a limited period of time after the clawback legislation is passed in which employers can correct any errors and amend their claims with HMRC without penalty. Once that amnesty is over, the scope for stating overclaims to be unknowing will be much reduced.



## Employment Tribunal Fees



**According to a recent article in the Times newspaper, the Ministry of Justice has written to the Law Commission inviting them to “provide recommendations for creating a coherent system for charging and updating fees in the future”.**

Fees were abolished in July 2017 following the Supreme Court’s decision in *Unison v Lord Chancellor*. There has been a strong rumour for some time that the Government was likely to try to introduce a new fees structure, with fees at a lower level and/or involving a fee payable by the employer when an employee lodges an ET3.

The Law Commission is an independent body whose purpose is to review the law of England & Wales and recommend reform where needed.

It is entirely possible that if the Government is determined, we could see a new employment tribunal fees structure introduced as soon as the next 18 to 24 months. A cynic might suggest the Government is seeking recommendations from the Law Commission to provide a safety net before the courts in the event of any future challenge to the legality of fees, if they are reintroduced by way of statutory instrument. Of course, with its substantial majority, the Government could introduce fees by way of primary legislation and thus avoid scrutiny by the courts.

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