



Mr Tony Geoghegan, Acting Chief Commissioner
Irish Human Rights and Equality Commission
Green Street
Dublin 7

By email

14th May 2020

Dear Mr Geoghegan

I'm writing in respect of an issue that was highlighted by NWCI's free employment law advice clinics, which we operate as part of the 'Decent Work for Working Women Project', as funded under IHREC's 2019-2020 grant scheme.

As reported in our most recent progress report on the project, a number of women had reached out to the clinic as they found that upon returning from maternity leave they were excluded from the benefits of the Temporary COVID-19 Wage Subsidy Scheme (TWSS) as, although they were employees, they did not receive normal pay during January and February 2020. This discrepancy impacts most acutely on low paid women workers whose employers do not top up Maternity Benefit, and who have been reliant on statutory Maternity Benefit for the duration of their maternity leave, expecting to return to work on full pay.

NWCI, along with SIPTU/Big Start and ICTU took immediate action and [wrote to](#) the Minister for Finance, Pascal Donohoe, asking him to act to immediately rectify this discrepancy. However, the Minister has replied to confirm that his approach to the matter will not be changing.

Women on maternity leave have a heightened level of protection and therefore cannot be placed in the same category as employees, for example, who commenced a new employment after that date, or returned to the payroll of his or her employer after that date following a period of unpaid leave. However, this is the argument that the Minister has put forth. We believe that this approach is not in compliance with the Maternity Protection Act 1994 which provides that women on maternity leave are entitled to be treated as if they had been at work during their maternity leave.

We also consider that this approach is not in line with the requirements of the Public Sector Equality and Human Rights Duty. The Duty places a statutory obligation on public bodies to eliminate discrimination, promote equality of opportunity and protect the human rights of those to whom they provide services and staff when carrying out their daily work. We do not believe that the Department of Finance was acting in accordance with their obligations under this duty when they formed this policy.

We would appreciate if you could review this matter, given IHREC's role in reviewing the adequacy and effectiveness of law and practice in Ireland from an equality and rights perspective and in assisting public bodies to uphold the Public Sector Duty. We look forward to hearing from you on this matter.

Sincerely,

Orla O'Connor, National Women's Council of Ireland.