



## **The End Violence Against Women Coalition (EVAW) and TIME'S UP UK submission to the Government Equalities Office Consultation on Sexual Harassment in the Workplace.**

**2nd October 2019**

The consultation closes on 2nd October at 11.59 PM.

**The consultation is hosted in full here:**

<https://www.gov.uk/government/consultations/consultation-on-sexual-harassment-in-the-workplace>

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### **About the End Violence Against Women Coalition**

The End Violence Against Women Coalition is a UK-wide coalition of more than 85 women's organisations and others working to end violence against women and girls (VAWG) in all its forms, including: sexual violence, domestic violence, forced marriage, sexual exploitation, FGM, stalking and harassment. We campaign for improved national and local government policy and practice in response to all forms of violence against women and girls, and we challenge the wider cultural attitudes that tolerate violence against women and girls and make excuses for it. Our trustees include women who are globally renowned for their pioneering work in setting up the first domestic and sexual violence crisis services, for their academic research in this End Violence Against Women Coalition.

### **About TIME'S UP UK**

TIME'S UP came into being following the revelations about Harvey Weinstein and the widespread disclosures of abuse by powerful men via #MeToo across the entertainment industry. The global movement brought together women filmmakers, actors, directors,

producers and writers in Hollywood and the UK to campaign for systemic change and the ending of harassment and abuse across the sector. Many male actors, directors and producers also gave their voice in supporting TIME'S UP and this support continues to grow.

We work with industry partners including the BFI, Birds Eye View, Raising Films, ERA 50:50 and Women in Film and Television to increase the equality and visibility of women in front of, and behind the camera and developing joint strategies to demand transparency and tackle biases across commissioning, casting, writing, directing, production and distribution. Working with UK grassroots organisations and activists we set up the Justice and Equality Fund managed by Rosa and kicked started with a £1million donation from Emma Watson which has now given out £2.7m million towards 41 grants awarded the length and breadth of the UK reaching a diverse range of communities, both rural and urban as well as a cross section of women from many backgrounds.

TIME'S UP looks forward to achieving zero tolerance of harassment, 50/50 pay parity and equal representation across the leadership of film, television and theatre sectors bringing about sustainable cultural change. TIME'S UP has a global board and a UK Board chaired by Dame Heather Rabbatts.

EVAW and TIME'S UP UK are members of the #ThisIsNotWorking alliance, a coalition led by the TUC. We have fed into, and been informed by the work of TUC in this response and are grateful for their input. Similarly we have also been informed by the work of the Fawcett Society in this response and are grateful for their input.

## **Background**

Sexual harassment in the workplace is a gendered issue, it is experienced predominantly by women, and perpetrated by predominantly men. We see sexual harassment as being part of the continuum of sexual violence, in that it is harmful in its own right, and creates its own set of harms but additionally creates a conducive context for other forms of violence against women and girls. We cite the below form the Rape Crisis England & Wales submission to the Women and Equalities Select Committee on sexual harassment in the workplace<sup>1</sup>:

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<sup>1</sup> [http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/women-and-equalities-committee/sexual-harassment-in-the-workplace/written/80423.html#\\_ftn7](http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/women-and-equalities-committee/sexual-harassment-in-the-workplace/written/80423.html#_ftn7)

“Defining sexual harassment can be difficult and instances of sexual harassment can be seen as innocuous, and less harmful than other forms of sexual violence. Workplaces may create cultures where sexual harassment and other forms of discrimination of harassment and discrimination are seen as acceptable. Condoning harassment creates a conducive context within which harassment can continue and burgeon, and within which other forms of sexual violence can occur.

The importance of intersectionality is vital in understanding the forms and consequences of sexual harassment. Sexual harassment can intersect with other forms of harassment such as racism, homophobia, gender identity, classism, disability amongst others. Women and girls can be targeted in multiple ways within the same instance of harassment and/or violence. Many black feminist academics and activists have pointed to the double oppression faced by black and minority ethnic (BME) women and the “othering” and eroticising of BME women’s bodies and sexuality. Women and girls who experience multiple forms of oppression often therefore experience sexual harassment as closely tied to their identity. It is therefore essential to consider sexual harassment with an intersectional lens.

Young women are statistically more likely to suffer from sexual violence than other age groups.<sup>2</sup> This is echoed within the workplace where perpetrators are more likely to sexually harass younger women, and women in precarious working positions such as women on zero hour contracts where there are very few employment protections. The EU Agency for Fundamental Rights notes that “Women with irregular or precarious employment contracts, which are common for many jobs in the services sector, are also more susceptible to sexual harassment.”<sup>3</sup> These are disproportionately likely to be black and minority ethnic women, and women with insecure migration status<sup>4</sup>. Recent EHRC research also found that younger mothers were significantly more likely to experience bullying and harassment at work during pregnancy compared to older mothers.<sup>5</sup>

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<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/sexualoffencesinenglandandwales/yearendingmarch2017>

<sup>3</sup> EU Agency for Fundamental Rights (2014) Violence Against Women: An EU wide survey

<sup>4</sup> <https://www.ein.org.uk/news/new-report-examines-experiences-women-insecure-immigration-status-who-suffer-gender-based-violence>

<sup>5</sup> EHRC (2015) Pregnancy and Maternity Related Discrimination and Disadvantage: First Findings

Sexual harassment is a gendered crime not solely because it is perpetrated typically by men against women, but because the impact on male and female victims is so different; women and girls are much more likely to report being intimidated and to change their behaviour as a result of the threat or reality of sexual harassment, which women fear may lead to the most serious forms of violence. Research such as that by Dr Fiona Vera Gray<sup>6</sup> records the response of many women, which is to perform 'safety work', that is, adapting their behaviour and movements, habitually limiting their own freedom in order to avoid sexual harassment. This occurs within workplaces as well as public spaces where women may act in certain ways to avoid drawing attention to themselves and to avoid becoming a target of abuse.

In the TUC/ Everyday Sexism report 'Still just a bit of banter?' it was found that in the vast majority of cases, the perpetrator was a male colleague, with nearly one in five reporting that their direct manager or someone else with direct authority over them was the perpetrator. We know that sexual harassment and sexual violence is at its heart about power and control and that patriarchal norms create a sense of entitlement over women and girls' behavior and bodies. This can be even further manifested within employment where there are clear power dynamics in organizational hierarchies.

In the TUC/ Everyday sexism survey those who reported that they had experienced sexual harassment, one in ten had experienced serious sexual assault or rape more than six times in their life. This further emphasizes the prevalence of sexual harassment and sexual violence and the fact that women experience multiple forms on the continuum of sexual violence at multiple times. Experiences of sexual violence are traumatic and this trauma can manifest in a myriad of ways ranging from anxiety, panic attacks, flashbacks, depression, isolation hyper-alertness, nightmares, suicidality among others. When survivors experience multiple forms of sexual violence this trauma can grow and be triggered by seeming 'lower level' forms of harassment. Victims and survivors need to access services which have a trauma informed approach."

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<sup>6</sup> <https://www.troubleandstrife.org/2016/05/situating-agency/>

## **Summary of recommendations**

1. We agree with the proposal that a new preventative duty should be introduced.
2. We recommend that clear technical guidance is developed and regularly reviewed with input from the specialist VAWG sector.
3. All workers should be included in protection from sexual harassment.
4. We agree that both the EHRC and individuals should be able to tackle breaches of the preventative duty.
5. Individuals should be able to enforce through employment tribunals but as such we call for the reintroduction of legal aid for employment cases.
6. Employers should have to host their policies on their external facing website.
7. Employers should set out the steps they have taken to prevent harassment in the workplace. This should be made available to all employees, in a way which can be accessed easily and anonymously.
8. Reporting mechanisms should be introduced by employers, as well as the EHRC in order that individuals can report anonymously if they wish. Mechanisms should also ensure that data is collected in order to inform practice.
9. We agree that sexual harassment should be treated the same as other unlawful behaviours under the Equality Act, when considering protections for volunteers and interns.
10. The time limit for bringing an Equality Act claim to an Employment Tribunal should be extended to 1 year for sexual harassment cases – and also cases relating to pregnancy and maternity discrimination.
11. We call for protection for migrant workers, insecure immigration status – firewall between public services and immigration enforcement.
12. We call for sustainable long term funding for specialist support services.
13. We call for improved criminal justice outcomes and measures to ensure that reports within workplace not predicated on a report to the police.
14. We call for a public awareness campaign which will address wider cultural stereotypes about and lack of understanding of sexual harassment.

### **Q1. If a preventative duty were introduced, do you agree with our proposed approach?**

EVAW and TIME'S UP UK strongly agrees with the introduction of a new preventative duty that requires employers to take all reasonable steps to prevent sexual harassment in the workplace. We would hope that such a duty would drive change at a systemic level, where responsibility is placed with employers in ensuring that meaningful action is taken to prevent and respond to sexual harassment.

It is important that employers are clear about what actions they need to take in order to meet the “all reasonable steps” requirement. In 2018 the Equality and Human Rights Commission (EHRC) found that only a small minority of employers in the UK had effective processes and policies to prevent and address sexual harassment in the workplace. It is therefore important that there is clear guidance issued setting out the minimum expectations from employers. This technical guidance is currently being produced by the EHRC. We would wish for any such guidance to be regularly reviewed with input from the specialist Violence Against Women & Girls (VAWG) sector.

We support the proposal that the Equality Act 2010 should be amended to make provision for this new preventative duty. However, we would seek assurance that the introduction of amendments into the act will not jeopardise the strengths and protections of the Act. We would urge caution around the unintended consequences that may arise as a result of seeking to introduce amendments into such an important enshrinement of rights and protections.

All workers should be protected from sexual harassment notwithstanding their employment status. We endorse the TUC proposal that the government expand the scope of the preventative duty to include workers currently not covered by provisions within the Equality Act 2010. This includes but is not limited to the genuinely self-employed, freelancers or those employed on a short-term basis such as session musicians, actors or comedians, and volunteers and interns.

We know that there are organisations and companies that use strategies in order to escape liability, or to transfer their obligations to other parties. We support the TUC’s recommendations that systems are established by which joint and several liability can exist across supply chains. The TUC lists the following benefits in this approach:

- Joint and several liability ensures that in phoenixing cases, where company directors put companies into insolvency to avoid their employment obligations, workers would still have a course of action to enforce their rights.
- Widening liability would ensure contractors are more diligent in choosing their subcontractors.
- Widening liability would strongly incentivise the lead contractor to risk assess, monitor and tackle potential breaches of employment standards in their supply chains.

- Joint and several liability may also have the benefit of incentivising the creation of more secure, permanent employment as fewer contractors are willing to take the risk of working with subcontractors who might create liabilities for them.
- Full joint and several liability provisions would ensure the enforcement process is transparent and that workers are fully informed of any action taken to remedy breaches of employment standards.

EVAW & TUUK agree with the government's proposal for the new duty to be underpinned by a new Equality and Human Right Commission (EHRC) statutory Code of Practice. The Code of Practice should outline all reasonable steps that an employer should take to prevent sexual harassment and echo TUC's suggestions which include:

- Establishing robust framework and policies for combatting sexual harassment based on a zero-tolerance approach.
- These policies and induction processes should make clear the expected standards of behaviour for employees, managers and third parties (where applicable) in relation to sexual harassment.
- Policies should be implemented and followed consistently, to give confidence to victims and ensure all involved are treated fairly and with due process.
- All staff, including those at board level, should receive contextualised sexual harassment training that is intersectional and from a trauma-informed perspective. To be repeated on a regular basis. Senior management buy-in to this process is essential.
- There should be a clear process communicated to all staff about how to safely raise a complaint regarding sexual harassment and to whom so that everyone in the organisation understands how to raise any concerns about themselves or others and feels safe to do so. This should make clear the steps that will be taken in the event of a concern being raised.
- Reporting mechanisms should consider multiple reporting options for workers that do not only rely on a line manager with independent or third-party options for reporting. This should include anonymous or confidential methods such as telephone helplines, online reporting tools or signposting to trade unions and third-sector sexual harassment specialist services.
- Line managers should be trained and confident in implementing the organisation's sexual harassment policy and competent in dealing with any disclosures or complaints. This competency should be assessed as part of an annual performance review.
- Annual anonymous staff surveys that contextualise sexual harassment for the workplace and different groups of workers such as those with protected characteristics.

The steps should be defined, reviewed and enforced by the EHRC working closely with specialists within the VAWG sector, trade unions, relevant sectoral regulators and inspectorates as well as civil society organisations and academics. Best practice on the action needed by employers is constantly evolving. The EHRC should allow sufficient time for an appropriate breadth of consultation on the statutory Code of Practice so they can draw on the many established and evidence-based methods of preventing sexual harassment and promoting change to policies and practice on this issue.

All organisations in the scope of the regulatory framework will need to be able to show to EHRC that they are fulfilling their duty of care to workers in accordance with the Code of Practice. The remit of the EHRC should be expanded to ensure they have the resources and means to take enforcement action against employers.

The EHRC should be given a suite of powers to take effective enforcement action against companies that have breached their statutory duty including powers to issue substantial fines and to publish the names of these organisations.

Financial penalties and reputational risk act as an effective deterrent ensuring employers prioritise prevention as evidenced by other regulatory action. Financial penalties should mirror sanctions in health and safety legislation, where failure to fulfil preventative duties that similarly ensure protection from risk of harm, physical or emotional lead to enforcement action. The financial loss should be proportional amount to the organisation's size and breach of the duty but sufficiently high to incentivise compliance.

EVAW & TUUK recognises that the widening remit of EHRC and its additional duties and enforcement action will have an impact on the capacity of the organisation. We cautiously support an increase of funding to EHRC in order to respond to this. However, we note the findings of the Women & Equalities Select Committee which called for increased boldness and greater proactivity from the body. We echo these calls.

We also call for clear monitoring and evaluation of the impact of this new duty – the impact of the duty itself, and also of the work of the EHRC in their enforcement and oversight.

**Q2. Would a new duty to prevent harassment prompt employers to prioritise prevention?**



Yes we believe a new duty would help ensure that the proactive prevention of sexual harassment is prioritised by employers.

Sexual harassment is not a series of isolated incidents that occur within a vacuum, the culture within a workplace, the level of oversight, the amount of training, the clarity of codes of conduct and the support given to people to speak out are all essential components in tackling sexual harassment. This new duty will force employers to invest resources into exploring the infrastructure of the workplace that could be contributing to harassment, or allowing it to go unchecked. Rather than responding to “one off occurrences” they will have to look to proactive prevention so that the harassment does not occur in the first place. This signals a sea change in the way we as a society can choose to respond to the issue of gender inequality and sexual harassment and if successful is one we should see to replicate in other areas.

However for this duty to be effective, the enforcement of the duty must be at a sufficient scale and the penalties for non-compliance are sufficiently punitive. There must also be adequate support in place for employers in order that they can fulfil their obligations such as accessible training, guidance that lists clear examples as to how employers can be compliant, and funding towards specialist support for those affected by sexual harassment who feel able to speak out once the duty is in place.

We support the EHRC’s call for it to be able to levy penalties, including for a breach of the mandatory duty, alongside potential fines in court. We would propose that this money be ring fenced and used for sexual violence work and also to fund specialists providing frontline support – such as additional funding of the Rights of Women sexual harassment at work free legal advice helpline.

We see this duty as a way to take the burden of reporting from the individual subjected to sexual harassment, and instead place that onus on the employers. Far too often tackling sexual harassment has been ignored or side-lined we hope that this duty will help ensure clear policies, reporting mechanisms, systems of redress, and support.

**Q3. Do you agree that dual-enforcement by the EHRC and individuals would be appropriate?**

We agree that both the EHRC and individuals should be able to tackle breaches of the preventative duty. We endorse the TUC position that individuals could enforce the duty through the Employment Tribunal process in which failure to take preventative steps as set

out in the statutory Code of Practice could lead to the imposition of a sex discrimination claim or influence an award uplift for any ongoing individual Employment Tribunal claim.

Other relevant bodies should also be able to report breaches of the duty to the EHRC on an anonymous basis if they wish. As we have stressed in earlier sections, we wish to shift the burden from the individual and instead address the systemic issues at play across workplaces. However, at the same time we do not want to restrict a woman from being able to bring her case to the EHRC.

Allowing the dual enforcement will require a public awareness programme that informs individuals, and employers of the legal duty and the rights and obligations under it. We question what if any additional powers the EHRC would require in order to be effective in investigating individual claims. We echo The Fawcett Society's suggestion that EHRC be given the power to investigate an organisation on the basis of a suspected breach of the duty, along the lines of its existing Equality Act 2006 powers, and to examine the preventative measures the employer had in place to prevent unlawful conduct from occurring.

We also support The Fawcett Society's suggestion of the introduction of a safe reporting mechanism however, we stand by the ethos that there should be no prevention without provision. This means that before asking more individuals to come forward you need to assess what support is in place for them. Support for women who have experienced sexual harassment in the workplace is severely lacking. Funding needs to be provided for initiatives like the Rights of Women sexual harassment line, and to specialist support services such as Rape Crisis England & Wales. Tied to this is support and growth of impactful grassroots projects such as Good Night Out and Hollaback Collective who are doing frontline work in campaigning against sexual harassment, and delivering training to employers and employees in a bid to stop it.

**Q4. If individuals can bring a claim on the basis of breach of the duty should the compensatory model mirror the existing TUPE provisions and allow for up to 13 weeks' gross pay in compensation?**

We believe the compensatory model should be that of the most generous apportionment in use. Additionally, legal costs are a barrier for individuals to be able to bring a claim against their employer and we call for Legal Aid to be reinstated for Employment Tribunal cases.

**Q5. Are there any alternative or supporting requirements that would be effective in incentivising employers to put measures in place to prevent sexual harassment?**

Employers should have to host their policies on their external facing website.

Employers should set out the steps they have taken to prevent harassment in the workplace. This should be made available to all employees, in a way which can be accessed easily and anonymously.

This requirement of transparency should incentivize employers to demonstrate their willingness and proactivity in complying with the duty.

**Q6. Do you agree that employer liability for third party harassment should be triggered without the need for an incident?**

Several reports have outlined the prevalence of third party harassment and demonstrate the need for urgent action by Government in this area. The TUC's 'Still a bit of banter' report revealed 7% of women who had experienced harassment reported that it was by a third party. The likelihood of an incident of sexual harassment occurring increases for certain groups based on other characteristics, with the TUC's report on the experiences of racism and discrimination at work finding that 25% of racist remarks, opinions or jokes directed at BME workers were from a customer, client or patient, and that third-parties were the second most common perpetrator of assault or physical violence. 1 in 5 LGBT+ workers who responded to the TUC's survey on sexual harassment in the workplace said their most recent harasser was a third party. The urgency for change was also echoed in our call for evidence, in which one respondent shockingly noted 'I don't know any female bartender who hasn't been harassed physically and/or verbally by a customer.'

We endorse the The Fawcett Society's proposal around 'situational awareness' and the need for it to be maintained by employers as it is possible for them to anticipate harassment is likely to occur through the creation of working conditions which they should know will increase the likelihood of sexual harassment from third parties. Fawcett applies this to the example of the Presidents Club scandal where women were employed to host a 'men-only' Presidents Club Charity Dinner at the Dorchester Hotel and were subjected to groping, sexist dress codes and rampant sexual harassment. It can also be applied to the case of women working in sexual entertainment venues such as strip clubs. It would be

reasonable to expect that these employers should have known the working conditions they were creating could contribute to the likelihood of sexual harassment occurring.

Under the new preventative duty individuals and the EHRC can take enforcement action against an employer for failing to take all reasonable steps to protect workers from sexual harassment regardless of whether that this from a colleague or a third-party such as a customer, client or patient. This protection does not require an incident of sexual harassment to occur.

**Q7. Do you agree that the defence of having taken ‘all reasonable steps’ to prevent harassment should apply to cases of third party harassment?**

We agree that the defence of having taken all reasonable steps to prevent harassment should apply to cases of third party harassment. However, every effort must be made to give clarity and set out the expectations of what “all reasonable steps” entails. We would expect this to feature in the Code of Practice, and reinforced by the introduction of a duty on employers to prevent harassment in the workplace from taking place in the first instance.

**Q8. Do you agree that sexual harassment should be treated the same as other unlawful behaviours under the Equality Act, when considering protections for volunteers and interns?**

Yes, It is vital that the scope of the law applies to volunteers and interns and that the protections are made available to them. Everyone should be able to work free from harassment. The power dynamics of the workplace can easily be exploited by a would be harasser/ predator and without explicit protection interns and volunteers are arguably far more vulnerable. Volunteers and Interns are often although not exclusively individuals who are looking for opportunities to get into paid employment and as such are often young men and women, this too makes them more vulnerable to harassment and less likely to be able to pursue a complaint for reasons of fear of jeopardising their future career chances. Volunteers and interns have less power, influence and insecure work status. We know that perpetrators of sexual harassment are likely to target such individuals in order to reinforce, and take advantage of the inherent power dynamic.

**Q9. Do you know of any interns that do not meet the statutory criteria for workplace protections of the Equality Act?**

We do not have the expertise to respond to this question but would call on the government to tighten the rules around internships and ensure they have protection from harassment, discrimination and exploitation.

**Q10. Would you foresee any negative consequences to expanding the Equality Act's workplace protections to cover all volunteers, e.g. for charity employers, volunteer-led organisations, or businesses?**

When considering any potential negative consequences it is vital that this is explored in reference to the impacts of experiencing sexual harassment. These impacts can be severe and long lasting and create trauma, or re-traumatisation within its victims. While it is important to be mindful of negative effects on charities, and consider any unintended consequences of such a preventative duty it must be framed within the context of the harm caused by sexual harassment.

We can foresee that if all volunteers were to be included this could have a chilling effect on organisations offering volunteering roles, which as mentioned above are a route for some to gain work experience which can increase their chances of paid employment. We suggest that to some degree creating different categories of volunteers may be the best option here with those who are regularly engaged with an organisation for example office volunteers being covered and those who volunteer on a more ad hoc basis for example marshalling a race as a one off not covered.

We do flag however that many charitable organisations who have volunteers will by virtue of their causes be working with vulnerable volunteers or will have volunteers who are working with vulnerable individuals and given what we know about perpetrators of sexual violence and harassment those organisations may be an attractive option to them as they may see an opportunity to access vulnerable individuals. It is therefore important that these organisations as well as having a duty here, also have appropriate safeguarding and other policies to ensure those vulnerable individuals are protected.

**Q11. If the Equality Act's workplace protections are expanded to cover volunteers, should all volunteers be included?**

Yes, as above, all volunteers should be included. When considering a 'chilling effect' the government must also consider the effect on women and girls wishing to volunteer but not feeling there are enough protections in place to ensure they are free from harassment.

We understand there may be different designations of volunteers based on the extent of their involvement in voluntary activities – ie one off versus sustained engagement.

**Q12. Is a three-month time limit sufficient for bringing an Equality Act claim to an Employment Tribunal?**

No this time limit is nowhere near sufficient. The time limits for sexual harassment cases – and also cases relating to pregnancy and maternity discrimination – should be increased to a minimum of 12 months. Whilst the rationale of 3 months i.e. that it is the time limit for many employment tribunal claims seems reasonable, in fact it is very important to distinguish these types of case from ‘average’ employment . For many women who have experienced these types of harassment the three-month time period will be insufficient time to lodge a complaint. This is because their response emotionally, mentally and physiologically to this type of behaviour will be different from their response to for example, a dismissal. It is well documented and researched the types of trauma that is experienced by those who have experienced sexual harassment and sexual violence. It is well known that women often take some time to process what has happened to them and that for all sorts of reasons they may delay reporting if they report at all, most don't. The question of the time limit can also be complicated by internal grievance procedures which may effectively time out a claim, as such we would assert that the time limit should be 12 months.

**Q13. Are there grounds for establishing a different time limit for particular types of claim under the Equality Act, such as sexual harassment or pregnancy and maternity discrimination?**

Yes, please see above

**Q14. If time limits are extended for Equality Act claims under the jurisdiction of the Employment Tribunal, what should the new limit be?**

12 months

**Q15. Are there any further interventions the Government should consider to address the problem of workplace sexual harassment?**

Please provide evidence to support your proposal.

- *Protection for migrant workers and those with insecure immigration status and a firewall between public services and immigration enforcement*

Migrants in general and particularly migrant women are some of the most vulnerable individuals in our society, this is especially so in the workplace. EAW member the Latin American Women's Rights Service (LAWRS) report '*THE UNHEARD WORKFORCE: Experiences of Latin American migrant women in cleaning, hospitality and domestic work*'<sup>7</sup> presents labour rights violations experienced by Latin American migrant women employed in three key feminised areas of London's labour sectors: cleaning, hospitality and domestic work.

This report shows that amongst other things:

- Over half of the workers faced breaches to their contracts (62%).
- Unlawful deduction of wages was the most common type of abuse (151 cases, 46%).
- 1 in 5 (20%) experienced illegal underpayment of the National Minimum Wage.
- 16% of the women endured a total of 13 different types of sexual harassment and abuse in the workplace.
- Abuse on the grounds of maternity was experienced by 9% of women. This includes failure to pay for hours spent at prenatal appointments and denial of risk assessments during pregnancy.
- 11 cases of potential trafficking for labour exploitation were identified: 7 were cleaners or hospitality workers and 4 were domestic workers.
- Over two in five (41%) of women in the sample have experienced discrimination, harassment or unreasonable treatment.

Report participants like Alicia told LAWRS how they felt owned by those who had brought them into the UK. "Being a domestic worker is dangerous, your bosses almost own you. They brought you to the country so you feel like you owe them, but they treat you like a slave. You work as a cleaner, cook, nanny, receptionist... you do it all, and they pay you £30 a day. It's crazy."

This report demonstrates that migrant workers are easily exploited, denied rights and subject to high levels of harassment and abuse at work. The hostile environment policy makes it especially difficult for these workers to complain about harassment, report crimes, seek help and support and enforce their rights.

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<sup>7</sup> <https://www.trustforlondon.org.uk/publications/unheard-workforce-experiences-latin-american-migrant-women-cleaning-hospitality-and-domestic-work/>

As a minimum government should create a firewall between public services e.g. police, healthcare etc. and immigration enforcement.

Additionally Government should create proper protection for migrant workers and others in low paid, insecure and zero hours employment arrangements.

- *Sustainable funding for specialist support services*

Specialist support services require proper sustainable funding. In particular the specialised BME by and for support services should be given appropriate ring-fenced funding. The LAWRS report referenced above was facilitated by their employment rights advice service, these types of services are dramatically underfunded. As are special sexual violence support services. If the Government intends to appropriately tackle sexual violence in all its forms, including sexual harassment, it must take a holistic and joined-up approach, so as well as policy and legislative change it must undertake preventative work and ensure appropriate advice, advocacy and support is available to those who have experienced harm.

In 2018, on formation in the UK, TIME'S UP's first urgent task was to set up a single central fund to support a range of organisations to help tackle sexual harassment across the UK. Known as the Justice and Equality Fund (JEF) and developed in close consultation with key grassroots UK women's organisations and distributed by Rosa, Emma Watson was the first UK catalyst to the fund donating a £1million and in acts of solidarity a further 400+ donors contributed £2.7million towards 41 grants that have now been awarded the length and breadth of the UK. We've reached a diverse range of communities, both rural and urban as well as a cross section of women from many backgrounds. Work that has been funded includes advice, support and signposting, legal and policy work and advocacy and prevention work.

Although we recognise that this funding is a drop in the ocean in comparison to what is needed, what we have found through the early work of the JEF are two worrying factors. The first is that in many cases we have ended up bolstering what should be statutory services offered to ALL women - for example, the first rape crisis service in Northern Ireland for 12 years or enabling Rape Crisis UK and Wales to be open for more hours in the day. The second is that although welcome, a chronically underfunded sector has struggled to be able to 'gear up' for this extra support and training has been one of the key needs in the set up phase.



Across the UK support to women is delivered through a multitude of under-resourced organisations who serve different constituencies of women, and these organisations need bolstering to offer more effective and joined up support. In the UK, legal defence is not the primary need articulated by trade unions and women's organisations working on workplace justice issues and tackling harassment. Instead, organisations that have supported women for decades advocate for a holistic approach reflective of her experience and tailored to her needs.

Within this framework, a route map for justice and recovery encompasses a range of support avenues, including criminal justice solutions where desired and appropriate, and also individual and group work, therapeutic support, and provision of places of safety.

- *Improved criminal Justice outcomes and measure to ensure that reports within workplace not predicated on a report to the police.*

We have seen an effective collapse in the prosecution of rape in recent years with the most recent stats showing that the Crown Prosecution Service brought forward just 1,758 charges for rape in 2018/19 whilst reports to Police rise exponentially reaching just under 54,000 in the year 2017/18. Given that this is a crime type that is overwhelmingly perpetrated against women. This contextually speaks volumes about societies attitudes around men's entitlement to women's bodies.

For all sorts of reasons the majority of women do not report sexual violence to police and as such reports in the workplace should not be predicated on reports to Police.

- *Legal Aid*

Successive cuts to legal aid have meant that there is very little meaningful access to legal help for the majority of those who would wish to seek legal advice on a whole range of issues, including employment related issues, where there is no legal aid at all save for some types of discrimination and only then in certain situations.

Where there is a suggestion of or facility for an individual to challenge a body who hold comparatively more power than them for example, as here where an individual could bring a complaint against their employer/ former employer for sexual harassment, we would say that person should be given realistic opportunity to seek legal advice and assistance.

## *Non Disclosure Agreements*

We echo the concerns of the Woman and Equalities Select Committee and others that the imbalance of power between employers and workers led to the unlawful and disreputable use of non-disclosure agreements in cases of sexual harassment. Too often NDAs are used to silence those who report incidences of sexual harassment and protect perpetrators and organisations. We support the TUC and therefore recommend that confidentiality clauses are only used in exceptional circumstances such as to protect individuals who wish to remain anonymous.

- *The development of an effective Relationships and Sex Education framework starting at primary school level that works to form a basis of consent and respect for other's autonomy and agency, that is underpinned with a gendered understanding.*

An epidemic of sexual harassment is taking place in the UK's universities with more than half of students saying they have experienced unwanted advances and assault, ranging from explicit messages to rape but only 8% of these cases are reported.. Furthermore, unions and guilds working in the creative industries talk about the prevalence university courses mentoring young men and women and creative talent to do "whatever it takes" to get their career break and exacerbating their vulnerability to unlawful behaviour. When creatives enter the workplace in unprotected situations such as gigs in venues and meetings held in private houses they are very vulnerable to predatory behaviour of people with more power than them. There is also a pervasive cultural misconception that male leadership and "authorship" in senior artistic positions constitutes a license to behave without impunity and that peak creativity requires an aggressive power dynamic.

- *Tackling wider culture*

We know that people hold disturbing ideas and stereotypes about sex, appropriate behaviours and rape and other sexual violence.

Recent research by Lean In across the US<sup>8</sup> shows that in spite of the growing awareness of the prevalence of sexual harassment in the workplace exposed by MeToo instead of men actively supporting women at work they are tending to pull back. 40% of managers who are men are uncomfortable participating in a common workplace activity with a

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<sup>8</sup> <https://leanin.org/sexual-harassment-backlash-survey-results>

woman. That includes mentoring, working alone and socialising together. This is up 33% from how they felt before widespread reports of sexual harassment.

Similarly, senior-level men are now twice as hesitant to spend time with junior women than junior men across a range of basic work activities, including one-on-one meetings, travelling for work, and business dinners.

This is a huge step in the wrong direction – especially given the vast majority of managers and senior leaders are men. Not harassing women is not enough. To get to equality, women need equal access to opportunities – and equal amounts of mentorship and sponsorship. This is especially true for women of colour, who are more often left out and overlooked.

By contrast, 28% of men say that harassment is decreasing. And 42% of men say that the consequences are more damaging to the careers of harassers, not victims. Women of course tend to disagree: 72% say it's the victims who end up paying a heavier price.

A recent BBC programme which specifically conducted a social experiment to see whether a group would identify sexual harassment showed that many struggle to understand and identify sexual harassment.

As such the Government should undertake a public awareness raising campaign, so that it is clearly understood what behaviour is unacceptable and the consequences of such behaviour.

ENDS