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Proposed Protection of Workers (Retail and Age-Restricted Sales etc.) (Scotland) Bill

Page 2: About you

Are you responding as an individual or on behalf of an organisation?

on behalf of an organisation

Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose "Member of the public".)

No Response

Please select the category which best describes your organisation

Third sector (charitable, campaigning, social enterprise, voluntary, non-profit)

Please choose one of the following:

I am content for this response to be attributed to me or my organisation

Please insert your name or the name of your organisation. If you choose the first option above, this should be the name as you wish it to be published. If you choose the second or third option, a name is still required, but it will not be published.

Scottish Women's Convention

Page 7: Your views on the proposal - Aim and approach

Q1. Which of the following expresses your view of creating a new offence of assault against a worker in the retail sector?

Fully supportive

Please explain the reasons for your response

Employment within the retail and hospitality sector is heavily gendered for a number of reasons. Women often take up these roles which are seen as providing easier access to the likes of part time contracts and flexible working hours to coincide with caring responsibilities. Women can work unsociable hours and, often in smaller employment establishments, work alone. Vulnerable and insecure working environments

Q1. Which of the following expresses your view of creating a new offence of assault against a worker in the retail sector?

can cause many stress and anxiety. When young women work in the retail sector in places such as supermarkets and betting shops, they are often responsible for carrying out verification for age related products. Women are often in an extremely difficult position when it comes to exercising their right to refuse products to customers balanced with the threat of intimidation. Bearing in mind that the onus is on the worker being liable for prosecution, this has led many to putting up with high levels of abuse, often highly gendered and sexualised in nature simply for doing their job. It must also be bore in mind that abuse can occur not just through age-related checks, but also for refusing sale to those seen as inebriated which can lead to violent behaviour. Assaults do not have to be physical but can also be verbal or highly sexual. For example, groping or touching can occur in a highly aggressive and sexualised manner which can be viewed as being "part of the job". Many women are left feeling extremely agitated and upset. Given Scotland's position as a leader in enforcing robust legislative measures to prevent these kind of actions, this must be addressed. Proposing to legislate for a statutory offence, similar to which covers emergency workers, is seen as a clear signal that this will not be tolerated. Failure to act on these issues not only impedes women's economic and career development, but is a blatant disregard for the individual's health and well being as well as a form of Violence against Women and Girls.

Q2. Which of the following would you support as a way to respond to assaults on workers upholding statutory age-restrictions?

A new statutory offence

Please explain the reasons for your response

Women have raised a number of experiences including fear that a refusal will incite someone to wait for them to leave work to confront them as well as extremely offensive, highly sexualised abusive language when refusing sale. Environments such as supermarkets do not have protective glass when refusing sales, leaving many women with less protection from intimidation of threats and violence. Some have spoken about customers who believe that using intimidation is an effective measure in order to get what they want. "If they see a young girl, they'll just go for it, people don't care that you're only doing your job, they just see a jobsworth. Even if you were to tell them this, they would take that as you being intimidated and carry on." "There is so much pressure with Think 25. People get sent by companies in that are of age to test you but you're meant to I.D. because they're, say 23, so you feel that pressure constantly to stay on your toes. Then when real customers come in they get aggressive." Therefore, a new statutory offence is seen as the best way to send a message that this type of abuse will not be tolerated.

Q3. Which of the following would you support as a way to respond to abuse, harassment, threatening or obstruction of workers upholding statutory age-restrictions?

A new statutory offence (for all these types of behaviour)

Please explain the reasons for your response

Many of the experiences that have taken place are verbally aimed at women and can be intimidating and derogatory. Just because physical violence is not carried out, does not make it any less serious simply because it takes the form of threats and shouting. Given the exponential rise in this form of violence, what is of great importance is not just the barrage of abuse encountered but the nature that this takes, often being violent and sexist. This type of behaviour must be recognised and more widely and acknowledged if it is to be prevented. Preventative measures should be tailored more effectively towards women. Failure to act on these forms of abuse is a disregard for women's health and well being given the high level of intimidation that they can face. This can often lead many to being off sick or being scared and depressed at the prospect of having to go into work. It is crucial that this legislation, if implemented, is not seen as a plaster over this pervasive problem but is worked in such a way so as to recognise the forms of abuse that women experience in these forms of employment. Furthermore, legislation should also cover incidents outwith but relating to the workplace environment. For instance, women have reported being shouted at on in the street a day later because of what occurred at work. Women have voiced the need for frameworks not only outlining reporting and investigatory process in accessible terms, but also detailing the protections

Q3. Which of the following would you support as a way to respond to abuse, harassment, threatening or obstruction of workers upholding statutory age-restrictions?

that will be enforced for any victim coming forward. Failure to do so only discourages women from speaking up out of fear of loss of promotional aspects or overtime. Every step must be taken to ensure that women feel confident enough to report abuse and intimidation. Otherwise it will continue against those merely doing their job. Given that common law already carries measures for those who have been assaulted, concerns have been raised as to how appropriate this Bill, if implemented, would actually be in terms of reporting. Those pieces of legislation are often not used for a number of reasons including women feeling it is their fault, bosses or even police not dealing with this seriously. Women have also stated that they can often be reluctant to report incidents to the police because of the negativity of the work environment. Failure to act and ensure robust frameworks that not only seek a preventative agenda but also ensure processes are in place for victims severely impedes women's equality. "You can feel pressure exacerbated due to customer service standards eg customer is always right. Legislation and policy is often seen as a minefield. Better just to pretend it's not happening." It is grossly unfair to expect these workers to uphold the law and be put themselves under threat of prosecution whilst having to undergo abuse at any level. Therefore, the utmost must be done at a legislative level to protect these workers.

Q4. Do you think that there are other steps which could be taken (either instead of, or in addition to, legislation) to achieve the aims of the proposal?

Yes

Please explain the reasons for your response.

It is not enough just introducing this into law if it is not followed by businesses. Any strategy which seeks to address this problem must incorporate the private sector. Without sufficient policy and as long as women continue to be highly over represented in these front line roles, they will continue to face discrimination. Many who report abuse to senior management are often overlooked and brushed off, seen as not a big deal. This is especially pertinent when it comes to gendered abuse. Women have spoken about reporting their experiences but being told it is part of the job, or even blamed themselves for wearing makeup, etc. Whilst women are broadly in support of enacting a new statutory offence to cover all of the above, there are a number of other options that have been raised to tackle this abuse in addition to such. These have been put forth to argue that sending a message that 'abuse will not be tolerated' can act as a heightened deterrent to stop would-be perpetrators. Implementation of these would then see the law being used as a last resort when the actual abuse has occurred. • Pressure on businesses to include information through induction and further training to ensure employees know their rights. Many workplaces do not have a coherent policy in terms of abuse by customers that takes the form of gender discrimination and sexism. This should also include clear definitions complimenting legislation as to what constitutes harassment and intimidation by customers including laying out the company's support in reporting such occurrences. • Information through government funded campaigns to make people aware of the new legislation proposed. This should include employer penalties for those who do not act on abuse or harassment when reported. • National campaigns. Pressure by organisations including trade unions to support initiatives to prevent abuse such as bans or restrictions on lone working. • Training for police staff in reporting and the seriousness nature of this abuse, which is not only physical. This should include highlighting the Victim's Code for Scotland to women when they report an incident. • Proposals to ensure women are allowed access to female police officers when reporting offences under the new legislation if they feel it would be more comfortable and give a victim first approach. This is especially pertinent in cases of highly sexualised abuse and harassment by customers where women may not feel comfortable reporting detailed descriptions to a man.

Q5. Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have on:

	Significant increase in cost	Some increase in cost	Broadly cost neutral	Some reduction in cost	Significant reduction in cost	Unsure
(a) Government and the public sector		X				
(b) Businesses				X		
(c) Individuals					X	

Please explain the reasons for your responses.

Government: There is a lack of policies or procedures in place at present to combat precarious employment and practices within the workplace in relation to women. The long awaited Taylor Review's failure to go far enough in addressing exploitation of workers and calling for a ban on zero hour contracts means many women in these jobs face unpredictable employment. Having to deal with abuse on a daily basis takes a severe toll on many women's physical and mental health. Whilst employment is mostly a reserved matter, the Scottish Government should do its utmost to enforce preventative measures through legislation to keep women safe whilst carrying out these jobs and reduce the harm that can come to them. Any cost to the Scottish Government in terms of public campaigns and enforcement of such legislation, are outweighed by the overwhelming need to keep those in the workforce safe and free from threats and intimidation. Both government and businesses should actively seek to evaluate and monitor how this legislation is taking hold, including in terms of gender but also by analysing qualitative measures to seek whether it is effective including consulting with women's lived experiences. Businesses: The most advantageous long term cost decrease to businesses if such legislation is enacted can be laid out in terms of loss of earnings due to sickness and staff absences when an incident has occurred. The way in which, at present, many companies structure themselves in a gendered manner is extremely important. Lack of sensitivity to the differing experiences of women in these environments or ignoring and discouraging reporting, even indirectly, all affects the way in which absences and staff turnover affect an organisation. Individuals: Statutory Sick Pay, which many retail sector employees can claim, is at a significantly lower rate than the National Minimum Wage. Furthermore, it can also only be claimed by "employees". Smaller retail companies employ casual or zero hours contracts, meaning that these women have no recourse to sick pay. Absence caused by stress can often lead to loss of earnings. There is also the case that many who work in retail have low hours contracts. They have to work regular overtime in order to make ends meet through the likes of overtime. Whilst women's employment continues to rise and more families are reliant on this work, it is vital that these women feel safe and healthy enough to go to work.

Q6. Are there ways in which the Bill could achieve its aim more cost-effectively (e.g. by reducing costs or increasing savings)?

Unsure

Please explain the reasons for your response.

Given the savings to the economy from loss of sick pay and the likes any monetary costs that come with implementation of the proposed Bill should be looked at and analysed in terms of the human emotional and physical cost that is saved. Promoting equality at any level should be done at whatever monetary cost. Additionally, numerous health problems have been discussed as linked to the stress and fear including anxiety and panic attacks, sleep problems. This can be extremely traumatic to many women, taking a severe toll on them. "You actually weigh it up: do I take 10 minutes of abuse hurled at me or do I risk prosecution?"

Q7. What overall impact is the proposed Bill likely to have on equality, taking account of the following protected groups (under the Equality Act 2010): race, disability, sex, gender re-assignment, age, religion and belief, sexual orientation, marriage and civil partnership, pregnancy and maternity?

Positive

Please explain the reasons for your response.

Women's access to the labour market is already highly skewed disproportionately to low paid jobs, often part time and in precarious conditions which routinely encounter abuse. Having to contend with such in these environments only seeks to reinforce this gendered inequality. Failure to acknowledge and include a specific framework for this lacks perceiving how different aspects of abuse affects different groups within society. A targeted priority devoted to diversifying and improving quality legislation is sorely needed. If the issue of abuse and intimidation is not tackled through a gendered lens and recognised for the real harm it causes to women, more and more will be discouraged from employment. Given that a high proportion of women employed within these sectors fall under protected group characterisation for reasons other than gender, it is hoped that this Bill will go a long way to protecting said women. BME females, for instance, can face overwhelming double discrimination for both their race as well as gender due to persisting societal, cultural and structural inequality. Furthermore, specific consideration of different cultures must be adhered to and all reporting and investigatory mechanisms must recognise this. Not only is this essential in terms of reporting of abusive customers, it is also vital for equality frameworks and encouraging employees feeling they can go to work in a safe environment. Women have said that despite risk assessment's being carried out which order that they cannot work alone either because of, for example, surroundings or pregnancy many still do in certain circumstances such as staff absences. They feel forced to do so in order to ensure they will be given hours in future. A further problem that has often arose is understanding the explicit nature of certain forms of abuse and harassment aimed at women. For instance, groping or sexualised language is often encountered but may not be considered a form of VAWG. This can often be portrayed as an overreaction by women. Any framework employed by any workplace, regardless of industry or sector, must fundamentally work to push for equality and setting a "victim first" approach, which encompasses protected characteristics underlined by the 2010 Equality Act. This piece of legislation can, in some way, arguably offset the deletion on employer's duty to protect employees from third party harassment within the Act. Young women often face double discrimination in areas such as employment due to being targeted negatively through the likes of low wage bands and, in turn, for their gender. These women are often highly clustered in the retail and hospitality industries for a number of reasons, such as studying. This can often make many the target for intimidation, especially in terms of the selling of age restricted items due to their young age. Legislating in such a way that will protect them from abuse is essential. "Sometimes they think because you are only eighteen you can be intimidated much more easily or that you're clueless because you've not been there that long."

Q8. In what ways could any negative impact of the proposed Bill on equality be minimised or avoided?

Since implementation of the National Living Wage, many women in current or new employment have seen their contracted hours altered in some way, more often than not for the worst. The majority of the time, the reasons employers have in doing this is purely economic, meaning they don't have to pay key rights such as holiday or sick pay at the new higher rate. This resulting downturn means many workers in these sectors rely heavily on extra hours to make ends meet. There have been a number who have noted they have had in the past discouragement of reporting for fear they will be overlooked for extra hours as a result. This is an unseen problem in many working environments where staff can be indirectly discouraged from reporting abuse because it is seen as time consuming or as part of the job that all staff must entail.

"The day after a customer was really demeaning and inappropriate to me, I brought this to my manager and was told 'well you shouldn't be working in this kind of place if you can't handle that.'"

In other cases, there have been times where a quick fix solution is seen as taking these women off certain shifts after a certain time, despite it entailing cutting hours or given other hours that are not as flexible as a result. This often relays back to these women that the abuse hurled at them for carrying out their job is somehow their own fault.

Q9. Do you consider that the proposed Bill can be delivered sustainably i.e. without having likely future disproportionate economic, social and/or environmental impacts?

Yes

Please explain the reasons for your response.

Economically speaking, this Bill has the potential to save much in terms of sick pay, employment tribunals and other such costs to Scotland's economy. Furthermore, by legislating in such a way it will emphasise a message that this abuse will not be tolerated and that the law is on the side of employees who are merely working to uphold age restrictions. These forms of jobs and abuse levelled can often make them emotionally and mentally draining or demanding irrelative to pay and conditions worked.

Page 16: General

Q10. Do you have any other comments or suggestions on the proposal, for example, other trigger points for violence and abuse, and other workers who should be covered?

A main point to keep in mind is that when this abuse is carried out it is often not done by an individual acting alone. The proposals for a new Statutory Offence, therefore, may act as some form of preventative and explicit measure in stopping this abuse being perpetuated by more than one perpetrator. Acts carried out by those of more than one can be extremely nerve wracking for many women and put them in fear for their own safety. Measures must be in place to impede this.

"Scared to go into work, catch-22 as you need to work but you're constantly watching around you to see what is happening and if anything will kick off."

Page 17: Personal Experience - Optional questions

Q11. Which of the following describes your retail-sector experience (please tick all that apply)?

None of the above

Q12. Which of the following describes your experience of violence or verbal abuse in the retail sector (please tick all that apply)?

None of the above

Q13. Please give details of any personal experience that you would wish to share. (Please avoid naming any other person or giving information that would allow another person to be identified)

No Response