



House of Commons
Women and Equalities
Committee

**Sexual harassment in
the workplace**

Fifth Report of Session 2017–19

*Report, together with formal minutes
relating to the report*

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Women and Equalities Committee

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Summary

Sexual harassment in the workplace is widespread and commonplace. It is shameful that unwanted sexual behaviours such as sexual comments, touching, groping and assault are seen as an everyday occurrence and part of the culture in workplaces. A BBC survey in November 2017 found that 40 per cent of women and 18 per cent of men had experienced unwanted sexual behaviour in the workplace. These behaviours are unlawful, but the Government, regulators and employers have failed to tackle them, despite their responsibilities to do so under UK and international law. As a result these legal protections are often not available to workers in practice. The #MeToo movement has put sexual harassment in the spotlight, but it is not a new phenomenon. Employers and regulators have ignored their responsibilities for too long.

It is time for the Government to put sexual harassment at the top of the agenda. Currently, there is little incentive for employers and regulators to take robust action to tackle and prevent unwanted sexual behaviours in the workplace. In contrast, there is considerable focus on protecting people's personal data and preventing money laundering, with stringent requirements on employers and businesses to meet their responsibilities in these areas. They should now put the same emphasis on tackling sexual harassment.

The effects of sexual harassment can be traumatic and devastating, but there is a lack of appropriate support for victims within the workplace. The lack of action by employers and regulators to tackle this problem means that the burden of holding harassers and employers to account rests heavily on the individual. However, many victims will not want to take forward a complaint for fear of victimisation, or because they cannot trust their employer to take robust action. For those who do take forward a grievance through their employer's internal procedures or at employment tribunal, these systems do not work well enough. This may explain why the number of tribunal cases appears to be so low. The tribunal system must be an effective remedy for employees, and the threat of tribunal must be sufficient to ensure that employers have proper systems in place to tackle and prevent sexual harassment. Better data is also required so that the extent of harassment and effectiveness of remedies can be more easily measured.

Non-disclosure agreements (NDAs) are used unfairly by some employers and also some members of the legal profession to silence victims of sexual harassment. While NDAs have a place in settling complaints of sexual harassment in the workplace, there is insufficient oversight and regulation of their use. It is unacceptable that some NDAs are used to prevent or dissuade victims from reporting sexual harassment to the police, regulators or other appropriate bodies or individuals. Those who use NDAs unethically in this way must face strong and appropriate sanctions.

We are calling on the Government to:

- a) Put sexual harassment at the top of the agenda, by
 - introducing a new duty on employers to prevent harassment, supported by a statutory code of practice outlining the steps they can take to do this; and
 - ensuring that interns, volunteers and those harassed by third parties have access to the same legal protections and remedies as their workplace colleagues.

- b) Require regulators to take a more active role, starting by
 - setting out the actions they will take to help tackle this problem, including the enforcement action they will take; and
 - making it clear to those they regulate that sexual harassment is a breach of professional standards and a reportable offence with sanctions.
- c) Make enforcement processes work better for employees by
 - setting out in the statutory code of practice what employers should do to tackle sexual harassment; and
 - reducing barriers to taking forward tribunal cases, including by extending the time limit for submitting a claim, introducing punitive damages for employers and reducing cost risks for employees.
- d) Clean up the use of non-disclosure agreements (NDAs), including by
 - requiring the use of standard, plain English confidentiality clauses, which set out the meaning, limit and effect of the clause, and making it an offence to misuse such clauses; and
 - extending whistleblowing protections so that disclosures to the police and regulators such as the Equality and Human Rights Commission are protected.
- e) Collect robust data on the extent of sexual harassment in the workplace and on the number of employment tribunal claims involving complaints of harassment of a sexual nature.

Introduction

1. In October 2017, allegations about sexual harassment in the entertainment industry began to appear in the media in the US and the UK. Many of these allegations concerned celebrities and other high-profile figures, but the stories sparked a mass movement of women from all walks of life and in many different fields of work sharing their own experiences of being sexually harassed in the workplace or elsewhere. Allegations of sexual harassment at Westminster were among those that emerged. The #MeToo movement put sexual harassment at the top of the news agenda as it became impossible to ignore how widespread, even commonplace, these experiences are.

2. In the wake of #MeToo, a wide range of employers found themselves scrambling to respond to allegations of sexual harassment in their organisations or sectors. Our concern is to ensure that, as the news cycle inevitably moves on, the urgency of action by employers and by the Government to tackle workplace sexual harassment does not wane. This report is, therefore, a call to action. The recommendations we make are aimed at ensuring that employers and those who regulate them maintain a focus on this issue even when they are not in the spotlight.

3. Sexual harassment at work is far from a new problem, despite its current high profile apparently having caught employers flat-footed. The International Labour Organisation has been discussing adoption of a convention on violence and harassment at work since 2015, and a Universities UK Task Force looking at violence against women students and harassment was convened the same year. The Equal Opportunities Commission regularly reported on work to tackle workplace sexual harassment before its abolition in 2007. This inquiry is part of an ongoing programme of work for the Committee on sexual harassment. In our report on schools, published in September 2016, we found that sexual harassment of girls was being accepted as part of daily life in schools, and that schools and teachers needed better support and guidance to ensure that they were not failing their students in this way.¹ In January 2018 we launched an inquiry on sexual harassment of women and girls in public places, that is, in the street, on public transport and in bars, clubs and venues; we expect to publish a report on that subject in Autumn 2018. In February 2018 we decided to launch this inquiry, on workplaces, as a way to harness the momentum of #MeToo to produce practical recommendations for change.

What is sexual harassment in the workplace?

4. The Equality Act 2010 is the most important law on sexual harassment in the workplace. The Act defines sexual harassment as “unwanted conduct of a sexual nature” which has the purpose or effect of violating dignity or “creating an intimidating, hostile, degrading, humiliating or offensive environment”.² A wide range of behaviour can come under this definition: sexual jokes or comments, remarks about someone’s body or appearance, displays of pornographic material, cat calls or wolf-whistling, flashing, sexual advances, groping, sexual assault, or rape. The common factors are the effect that the conduct has on the victim, and that it is unwanted. Some forms of workplace sexual harassment can constitute a criminal offence, for example under the Protection from

1 Women and Equalities Committee, Third Report of Session 2016–17, [Sexual harassment and sexual violence in schools](#), HC 91

2 Equality Act 2010, [section 26](#)

Harassment Act 1997 (harassment and stalking), the Sexual Offences Act 2003 (sexual assault and voyeurism) or the Criminal Justice and Courts Act 2015 ('revenge porn'). Whatever form it takes, sexual harassment in the workplace is unlawful.

Box 1: An individual's experience

"I have been asked directly for sex while at work by a superior. I have been shown a pornographic video and asked for oral sex while at work by a line manager. I have been stalked by a line manager. I have been verbally harassed by a pair of male colleagues whose comments were sexually explicit and concerning the rape of women and intended to cause intimidation and distress for their personal amusement while at work. These are some of the most serious experiences but casual chauvinism and comments about my appearance, sexual desirability, and conversations that are demeaning or intended to insult women alongside inappropriate physical contact and inappropriate gaze have been a commonplace throughout my working life."

Individual's story from submission by 38 Degrees³

5. Sexual harassment in the workplace is understood under multiple international agreements and laws as sex discrimination and a form of violence against women.⁴ The UK is committed to tackling sexual harassment—wherever it occurs—and the culture that enables it under the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW).⁵ Article 40 of the Istanbul Convention, which the UK plans to ratify, deals specifically with sexual harassment,⁶ and the UK has signed up to the Sustainable Development Goals which require the elimination of all forms of sexual and other violence against women by 2030.⁷

6. The Equality Act also places particular obligations on employers that are public bodies. Under the Public Sector Equality Duty, those organisations have a responsibility to have due regard to the need to eliminate sexual harassment. This applies not only to their employment functions, but also to how they carry out their functions whether as a service provider, policy-maker or in the use of their regulatory powers.⁸

How widespread is sexual harassment in the workplace?

7. The Government does not collect data on the prevalence of sexual harassment in the workplace. Data on employment tribunals does not allow cases involving allegations of sexual harassment to be easily identified, and would in any event only show the very tip of the iceberg as few cases get that far.⁹ The scale of the issue is masked within organisations by the fact that the majority of incidents are never reported to an employer.¹⁰

3 38 Degrees (SHW0025)

4 UN, [Declaration on the Elimination of Violence Against Women](#), Article 2; Close the Gap (SHW0040)

5 UN Committee on the Elimination of All Forms of Discrimination Against Women, [General Recommendation No. 35 on gender-based violence against women](#)

6 Council of Europe, [Convention on preventing and combating violence against women and domestic violence](#)

7 UN, [Sustainable Development Goal 5](#), accessed 18 July 2018

8 Equality and Human Rights Commission, [Technical Guidance on the Public Sector Equality Duty: England](#), accessed 12 July 2018

9 [Letter](#) from Parliamentary Under-Secretary of State for Justice, relating to time limits for pregnancy and maternity discrimination claims, 6 July 2018

10 BBC – [Sexual harassment in the work place 2017](#), survey by ComRes, November 2017; BBC Radio 5 Live – [Sexual harassment in the workplace 2017](#), survey by ComRes, October 2017; TUC, [Still just a bit of banter? Sexual harassment in the workplace in 2016](#), August 2016

8. Surveys commissioned by media and other organisations, of which there was a spate following the emergence of #MeToo, therefore provide valuable insights into prevalence. The impression such surveys give of a widespread problem across many sectors is borne out by evidence we have received about, for example, the entertainment industry, teaching, journalism, hospitality, retail, healthcare, the music industry and the international charity sector. Throughout the world of work, in spite of the law, sexual harassment is an everyday, common occurrence.

9. Research by ComRes for the BBC in November 2017 (surveying 6,206 adults in Great Britain) found that 40 per cent of women and 18 per cent of men (29 per cent overall) had experienced some form of unwanted sexual behaviour in the workplace, including nine per cent in the preceding year. This ranged from displays of pornographic material and unwelcome jokes or comments of a sexual nature to serious sexual assaults.¹¹ A ComRes poll for BBC Radio 5 Live in October 2017 (surveying 2,031 adults) found that 53 per cent of women and 20 per cent of men (37 per cent overall) said they had experienced sexual harassment at work or a place of study, and one in 10 of the women who had been harassed said they had been sexually assaulted.¹² Surveys that ask about experience of ‘sexual harassment’, as opposed to specific unwanted behaviours, tend to show lower rates of incidence, perhaps because respondents may not categorise all those behaviours as harassment.¹³

10. Men can also be victims of sexual harassment (perpetrated by both women and men), and women can be perpetrators (against both men and women).¹⁴ We acknowledge a risk that portraying it as an issue that only affects women could discourage male victims from reporting complaints.¹⁵ However, women are significantly more likely to experience sexual harassment than men.¹⁶ Perpetrators are disproportionately men.¹⁷ Sexual harassment can be considered both a cause and consequence of sex inequality, and some of the evidence we received drew links between sexual harassment and other manifestations of gender inequality in the workplace such as the gender pay gap and the underrepresentation of women in leadership roles.¹⁸

11. Specific groups are disproportionately affected or susceptible to sexual harassment at work, such as young women between the ages of 18 and 24, employees with a disability or long-term illness, and members of sexual minority groups.¹⁹ Workers with irregular, flexible or precarious employment contracts, common in the services sector, and

11 [BBC – Sexual harassment in the work place 2017](#), survey by ComRes, November 2017

12 [BBC Radio 5 Live – Sexual harassment in the workplace 2017](#), survey by ComRes, October 2017

13 [Q328](#). For example, Opinium research in August and September 2017 (2,000 online interviews with UK workers) found that 20 per cent of women and seven per cent of men (14 per cent overall) reported being a victim of sexual harassment.

14 Centre for Gender and Violence Research, University of Bristol ([SHW0089](#)); NGO Safe Space ([SHW0038](#)); [Q390](#); Paula McDonald, “Workplace Sexual Harassment 30 Years on: A Review of the Literature”, *International Journal of Management Reviews* 14(1) (2012), pp. 1–17

15 Chartered Institute of Personnel and Development ([SHW0033](#))

16 Close the Gap ([SHW0040](#)); 38 Degrees ([SHW0025](#)); [BBC – Sexual harassment in the work place 2017](#), survey by ComRes, November 2017; [BBC Radio 5 Live – Sexual harassment in the workplace 2017](#), survey by ComRes, October 2017; TUC, [Still just a bit of banter? Sexual harassment in the workplace in 2016](#), August 2016

17 TUC ([SHW0031](#)); Centre for Gender and Violence Research, University of Bristol ([SHW0089](#))

18 Rape Crisis England and Wales ([SHW0045](#)); Centre for Gender and Violence Research, University of Bristol ([SHW0089](#))

19 TUC, [Still just a bit of banter? Sexual harassment in the workplace in 2016](#), August 2016; [BBC – Sexual harassment in the work place 2017](#), survey by ComRes, November 2017; Dr Sandra Fielden ([SHW0068](#)); [Q331](#)

freelancers are more likely to experience sexual harassment.²⁰ Specific factors may affect different racial groups, and experience of sexual harassment can be bound up with racial harassment.²¹ TUC research found that no BME women who had reported an incident to their employer felt it had been dealt with satisfactorily, compared to seven per cent of white women.²²

The impact of workplace sexual harassment

12. Sexual harassment can have a devastating impact on those who are subjected to it. Mental and physical health often suffer, leading to anxiety, poor sleep, depression, loss of appetite, headaches, exhaustion or nausea.²³ Victims feel humiliation, mistrust, anger, fear and sadness.²⁴ Women who have experienced harassment often take it on themselves to alter their own behaviour and habits or curtail their activities to avoid their harasser or similar situations, while observing that perpetrators suffer no negative consequences.

Box 2: The impact of workplace sexual harassment: individuals' experiences

“I was absolutely humiliated, I felt deep shame and was treated horrifically by my own colleagues and employers. I was the only woman [...] in my place of work and when it came to the crunch, the boys' club rallied around for each other. Who was I supposed to go to for help? No-one cared and no-one listened. I was alone.”

“I am deeply traumatised by everything. I do not feel safe ever. [...] I have to wear shoes I can run away in.”

Written evidence from members of the public²⁵

“The impact isn't mild: it makes women less inclined to speak up as it draws attention to themselves when they are already the unwilling recipient of attention. This denies their contribution to the organisation; it reduces the likelihood of performing well and so reducing their chance of career progression.”

“The impact is as with most forms of abuse of power: it can leave people feeling humiliated and scared, but also trapped.”

Individuals' stories from submission by NGO Safe Space²⁶

13. Although the legal and moral cases for preventing sexual harassment should be sufficiently compelling for employers, there is also a business case to be made: a poor organisational culture and failure to deal with sexual harassment allegations lead to employees being dissatisfied with work, having a low opinion of their managers, absenting

20 Rape Crisis England and Wales ([SHW0045](#)); Focus on Labour Exploitation (FLEX) ([SHW0016](#)); [BBC – Sexual harassment in the work place 2017](#), survey by ComRes, November 2017

21 Dr Sandra Fielden ([SHW0068](#)); TUC ([SHW0031](#)); [Q331](#)

22 TUC ([SHW0031](#))

23 Victim Support ([SHW0036](#)); Dr Afroditi Pina ([SHW0034](#))

24 Dr Afroditi Pina ([SHW0034](#))

25 A member of the public ([SHW0046](#)); A member of the public ([SHW0043](#))

26 NGO Safe Space ([SHW0038](#))

themselves or wanting to leave.²⁷ Unite the Union argues that sexual harassment “creates a work environment of fear and intimidation”.²⁸ Allowing women to be treated in a demeaning way at work stifles their professional development and contribution.²⁹

Our inquiry

14. We held seven oral evidence sessions specifically for this inquiry on the workplace. Our witnesses included employment lawyers, unions, researchers, employers and regulators. We were grateful throughout for the assistance of our specialist adviser, Clare Murray, a specialist employment and partnership lawyer.³⁰ We received written evidence from a wide range of organisations and individuals, including many submissions from members of the public who wanted to tell us about things that had happened to them at work, how their employers dealt with it, and how practices and systems could be improved. We are so grateful to all those who shared their views and experiences with us. We realise that in many cases it must have been distressing to re-live the events in question, and we appreciate that people have done so not only in the hope of being listened to at last, but out of a desire to see things change in the future.

15. The House of Commons is among the workplaces in which allegations of sexual harassment have been made, subject to renewed focus since the #MeToo movement began. Work is being done in other forums to investigate the scale of sexual harassment at Westminster, to put in place systems for handling reports and to look at how to address the underlying culture. We are not in a position to make comment on that work here, except to say that we all want to see our own workplace held to the highest of standards.

16. Our call to action is for the Government, regulators and employers. In this report we ask them to put sexual harassment at the top of the agenda, raise awareness, make enforcement and reporting processes work better, require regulators to take a more active role, clean up the use of non-disclosure agreements in cases of sexual harassment, and collect better data about the extent and nature of the problem.

27 Chartered Institute of Personnel and Development ([SHW0033](#)); Dr Afroditi Pina ([SHW0034](#))

28 Unite the union ([SHW0035](#))

29 A member of the public ([SHW0015](#))

30 Clare Murray is Managing Partner at CM Murray LLP. She declared no interests.

1 Put sexual harassment at the top of the agenda

Summary

17. Employers have failed to tackle workplace sexual harassment, despite evidence that this is a long-standing and endemic problem that has been raised by the International Labour Organisation, among others. Incentives on employers to protect their workers from sexual harassment are insufficient. In addition, the legal protections afforded to workers varies according to their employment status and who the harasser is. Sexual harassment in the workplace needs to be at the top of the agenda for employers, and the Government needs to demonstrate that tackling sexual harassment is a priority by ensuring that this happens.

A lack of action by employers

18. We have been struck by evidence that, while there is widespread knowledge among women about workplace sexual harassment, there is a lack of awareness at the most senior levels of employers about the extent of sexual harassment in their organisations.³¹ This lack of awareness is in part arguably a symptom of the long-standing underrepresentation of women in leadership positions.³² Kathryn Nawrockyi recalled that businesses leaders were “shocked” when Business in the Community published survey data showing that 12 per cent of women had experienced some form of workplace sexual harassment in the preceding three years:

People did not want to think that this was happening in their organisation; they could not believe that it was happening in their organisation. Talk to the women that responded to that survey, or other women out there, and most of them would say, ‘Of course it is; it’s so normalised.’ Leaders tend not to realise that it is such a problem.³³

This may help to explain why we have come across so little evidence of employers making a concerted effort to tackle and prevent sexual harassment. This is the case despite the obvious business reasons to address the issue and the fact that, under the Equality Act, employers are liable for acts of sexual harassment by one employee towards another unless they have taken reasonable steps to prevent it.

19. The Equality and Human Rights Commission (EHRC) wrote to large employers in December 2017 to ascertain how their organisations were going about preventing and addressing sexual harassment at work. The responses, from 234 employers, reinforce the impression of inconsistent and inadequate practice. While some employers had effective approaches including clear policies, codes of conduct, and strategies for communication and monitoring, they were in a small minority. Policies that purported to cover sexual harassment often made minimal reference to it: “part of a sentence on a page of a policy”.³⁴

31 [Q331](#); [Q472](#) [Dr Henrietta Hughes]

32 [Q2](#) [Neil Carberry]; [Q46](#) [Ksenia Zheltoukhova]

33 [Q331](#)

34 [Q278](#)

Only around two in five employers included information in staff induction about the behaviours expected in the workplace and how to report it when behaviour falls below that standard. Reporting was usually expected to be through a generic grievance procedure.³⁵

20. Sue Coe, Principal for Work and Employment at the EHRC, described much of the practice that the Commission learned about as “just paper-based compliance”. She told us

You could count on the fingers of one hand the number of organisations that had rounded practice where they had taken steps to train, evaluate that training, include steps in induction, track those who had raised complaints to make sure that they were not being victimised and were not blocked in their progression in the organisation.³⁶

21. Under the Public Sector Equality Duty, public sector bodies must have due regard to the need to eliminate discrimination, including sexual harassment. Even public sector employers, however, often have very limited information about the scale of the problem in their own organisation. While the Civil Service collects annual statistics on the extent of bullying and harassment more widely among its staff, specific information on sexual harassment is not collected. In the public sector as in the private, the prevalence revealed by surveys is not reflected in the number of reports, complaints or grievances made. Chief Constable Julian Williams, the National Police Chiefs Council lead for Professional Ethics, told us that he had canvassed 17 police forces, covering some 180,000 staff, and found that over the past seven years, 194 cases of sexual harassment had been dealt with internally.³⁷ However, a survey of 189 senior women police officers (inspectors and chief superintendents) had found that one third said they had been subject to sexual jokes or other forms of sexual harassment.³⁸ In the Civil Service, which employs 380,000 people, only 21 sexual harassment cases were brought as grievances in 2016–17.³⁹

22. It should be expected that the Public Sector Equality Duty would help make public sector employers exemplars for good practice. Despite this, we found that specific actions to tackle sexual harassment in the workplace were thin on the ground, although more general initiatives on workplace conduct and ethics might be in place. The Police’s Dignity at Work policy, for example, does not specifically address sexual harassment.⁴⁰ The Civil Service has an overall strand of work on bullying, harassment and discrimination, but nowhere in its diversity and inclusion strategy is sexual harassment explicitly mentioned.⁴¹ The Crown Prosecution Service (CPS) launched an anonymous helpline for bullying and harassment in January 2018, and has had an employer’s guide on violence against women since 2010, but the latter largely relates to supporting staff who may be subject to violence outside the context of work.⁴² The CPS also has a Dignity at Work policy with a small specific section on sexual harassment.

23. Sue Owen, the Civil Service Diversity Champion, told us that since the diversity and inclusion strategy was published in summer 2017 more specific work was being done on sexual harassment and “it is certainly much more in the consciousness of our senior

35 Equality and Human Rights Commission, [Turning the tables: ending sexual harassment at work](#), March 2018

36 [Q276](#)

37 [Qq372–373](#)

38 [Q369](#)

39 [Q374](#)

40 [Q369](#)

41 Civil Service, [A brilliant Civil Service: becoming the UK’s most inclusive employer](#), 2017

42 [Q368](#)

leaders”.⁴³ We heard that the Civil Service had done analysis and was testing “solutions”, but that they had not yet engaged with experts on sexual harassment and there would be a further phase of work that had not taken shape.⁴⁴ Sue Owen said that the Civil Service “will now think very explicitly about whether we need a separate code on sexual harassment”.⁴⁵ Chief Constable Julian Williams said that the police Code of Ethics “may need a refresh, and sexual harassment could appear in there”.⁴⁶ We were left with an impression of organisations which have not taken this issue seriously in the past, which have failed to put procedures in place, and which have relied on more generic workplace policies that are not sufficient to tackle sexual harassment.

The need for strong incentives

24. This epidemic of inaction and poor practice demonstrates that employers are currently not taking this issue seriously, and that they are not adequately incentivised to take action on sexual harassment in the workplace.

25. Incentives are inarguably much stronger in other areas of corporate governance. Employment lawyer Clare Murray contrasted the approach of businesses to preventing sexual harassment with the approach necessitated by the rather more exacting requirements attached to data protection and preventing money laundering:

These are really stringent regimes that have criminal and civil sanctions. They make it clear that, for a business to be able to show reasonable steps defences, they have to have done things like undertaken very proactive risk management and risk assessments in their workplace to identify low, medium and high risks. They have to tailor their training and their policies to those risks. They have to have officers. There are sanctions if they do not have them, and they do not get the benefit of the ‘reasonable steps’ defence if they do not adhere to those proactive steps. [...] we should be willing to consider placing as much importance on protecting people’s safety and their wellbeing at work as we do on their data and on preventing money laundering through businesses.⁴⁷

26. Mandatory requirements, sanctions for breaches and proactive enforcement reflect the importance of an issue, its impact on society and how seriously employers are expected to take it. The anti-money laundering and data protection regimes are both supported by sets of explicit obligations on organisations, whereas there are no mandatory obligations on employers to take positive steps to prevent sexual harassment. Agencies enforcing Anti-Money Laundering regulations can issue unlimited fines, remove fit and proper status from an individual or cancel a business’s registration, among other sanctions. Non-compliance with the General Data Protection Regulation can result in a fine of up to four per cent of global turnover or €20 million, whichever is the greater. The Equality and Human Rights Commission, meanwhile, cannot even impose fines on its own account when enforcing the Equality Act. By these measures, sexual harassment is currently being allowed to sit

43 [Q369](#); [Q383](#)

44 [Q378](#)

45 [Q410](#)

46 [Q411](#)

47 [Q2](#)

too far down employers' list of priorities. Unless the media spotlight happens to be on them, senior leaders simply do not have sufficient reason to worry about the consequences of failing their staff by not taking steps to prevent sexual harassment in their workplace.

27. Providing a workplace where employees have safety and dignity is no less important than other corporate responsibilities such as preventing money-laundering and protecting personal data. We call on the Government to establish a regime that ensures that it will be just as important to employers.

Relieving the burden on the individual

28. In the absence of comprehensive action by employers and of a stringent regulatory regime, the burden of tackling sexual harassment at work rests with individual workers. An individual who has suffered sexual harassment at work has the option of raising a complaint or grievance with their employer, assuming that proper processes are in place. They may bring a claim for sexual harassment under the Equality Act against their employer and against individual perpetrators in the employment tribunal. None of these are ever easy options, and they can be extremely difficult or traumatic experiences. We consider barriers to tribunal action in more detail in Chapter 3, but even making an internal report of an incident of sexual harassment is something that many victims do not want or are not able to do. Elizabeth Prochaska, Legal Director of the EHRC, described this requirement on the individual to hold perpetrators and employers to account as a “crushing burden”.⁴⁸ Reflecting on the #MeToo movement, she drew from it the lesson that

really we should not be expecting individual women to go through and endure a protracted legal process in order to get access to justice in order to remedy a terrible situation at work. What that movement is about is solidarity rather than individual action.⁴⁹

29. The EHRC's proposed solution is that a mandatory duty should be placed on employers to take reasonable steps to protect workers from harassment and victimisation in the workplace.⁵⁰ Ms Prochaska argued that this would lift the burden off individuals by setting a clear expectation that employers must put in place protective measures, with the intention that those measures would ultimately remove the need for individuals to seek their own remedy or use whistleblowing procedures. The duty, she explained, “says that it is up to employers to take steps in the first place”. The EHRC's recommendation continues that breach of that duty would constitute an unlawful act that would be subject to enforcement action by the EHRC. The Commission would not, therefore, need to be concerned with whether or not an individual act or acts of harassment had occurred; instead, “we would be further upstream. We would be saying, ‘We can see that you as an organisation are simply not taking any steps to protect your employees.’”⁵¹

30. We heard differing opinions on the EHRC's recommendation. Joanna Blackburn, a partner at Mischon de Reya, argued that it was unnecessary and that there were other stages that should be gone through before imposing a duty, such as assisting with implementation of existing laws and helping employers understand what compliance and

48 [Q284](#)

49 [Q284](#)

50 Equality and Human Rights Commission, [Turning the tables: ending sexual harassment at work](#), March 2018

51 [Q288](#)

best practice looks like.⁵² Michael Reed of the Free Representation Unit warned that the issue needed to be tackled on a number of fronts, not just through a duty, especially as employers are already responsible in law under the Equality Act.⁵³ Barrister and Professor of Human Rights Law Aileen McColgan, however, was in favour, saying that it would induce employers to think about how to address the contexts—such as power imbalances and limited oversight—that are more likely to see sexual harassment occur and go unchecked.⁵⁴ Dr Rachel Fenton cautioned that a duty should not simply mandate that an employer take steps: those steps must be effective. In other words, it should not be possible for employers to comply unless they have shown that they are evaluating and reviewing the actions they are taking.⁵⁵

31. We agree with the Equality and Human Rights Commission (EHRC) that the burden of holding perpetrators and employers to account on workplace sexual harassment is too great to be shouldered by individuals alone. Employers must have greater and clearer responsibilities for protecting workers from sexual harassment.

32. We support the recommendation of the Equality and Human Rights Commission that the Government should place a mandatory duty on employers to protect workers from harassment and victimisation in the workplace. Breach of the duty should be an unlawful act enforceable by the Commission and carrying substantial financial penalties. The duty should be supported by a statutory code of practice on sexual harassment and harassment at work which sets out what employers need to do to meet the duty. We discuss the code further below.

33. The public sector should be leading the way on tackling and preventing sexual harassment, setting good practice examples that other employers can follow. We urge the Government to ensure that all public sector organisations take immediate action to protect workers from sexual harassment.

34. In the interim period before the mandatory duty is in place, the Government should direct public service employers to take immediate action to tackle and prevent sexual harassment in the workplace, including setting out unacceptable behaviours, how cases will be handled and the penalties for perpetrators.

35. The Government should introduce a specific duty under the Public Sector Equality Duty requiring relevant public employers to conduct risk assessments for sexual harassment in the workplace and to put in place an action plan to mitigate those risks. Action plans should set out how cases will be investigated and include guidance on penalties for perpetrators.

Third party harassment

36. Third party harassment is the harassment of an employee or worker by someone who is not an employee but with whom the employee has contact as part of their work—for example, a client, customer or even a colleague who has a different employer. A TUC survey found that seven per cent of the women who had experienced harassment reported that the perpetrator was a third party, and this was more likely to be the case for

52 [Qq494–500](#)

53 [Q495](#)

54 [Q486](#)

55 [Q354](#)

temporary and agency workers.⁵⁶ Research by ComRes for the BBC in November 2017 found that, depending on the behaviour complained of, between five and 18 per cent of those who had experienced sexual harassment in the workplace said the initiator was a client or customer. For example, of those who had experienced unwanted verbal sexual advances, 16 per cent identified a client or customer as the initiator.⁵⁷ Workers in the retail, catering, hospitality, care, healthcare and transport sectors have been identified as being more likely to be affected by third party harassment.⁵⁸ Reports emerged in January 2018 about 130 staff who had been placed in a work environment—the Presidents Club dinner—in which sexual harassment of hostesses by attendees was at the least foreseeable, and possibly encouraged.⁵⁹

Box 3: Third party sexual harassment: individuals' experiences

“We’ve been told nothing can be done for harassment with customers except if we see someone who stalks you, [then] we are allowed to hide out back.”

“I was repeatedly harassed by a male customer, I was told to just deal with it—and had to continue serving him daily.”

Individuals who responded to EHRC survey⁶⁰

“I have been whistled at whilst trying to teach, and one extreme case where a boy pushed his crotch up against my back to intimidate me. The boy was removed from my lesson once and then I was asked to accept him back in.”

Individual’s story from submission by the National Education Union⁶¹

37. In its original form the Equality Act 2010 contained provisions under section 40(2)-(4) which made employers liable for failing to protect workers from third party harassment if they were aware that harassment had previously occurred on two occasions (often referred to as a ‘three strikes’ rule), and they had failed to take reasonable steps to prevent it from happening again. Similar provisions had been in place in other legislation since 2008. Following a consultation in 2012 the Government announced that it would repeal these provisions, stating that they were not “fit for purpose”.⁶²

38. There is very little evidence about whether or not the section 40 provisions, when they were in force, had any effect on the amount of third party harassment taking place. Only a small number of cases were taken forward under section 40(2)-(4), and these were mostly

56 TUC, [Still just a bit of banter? Sexual harassment in the workplace in 2016](#), August 2016

57 BBC – [Sexual harassment in the work place 2017](#), survey by ComRes, November 2017

58 TUC, [Still just a bit of banter? Sexual harassment in the workplace in 2016](#), August 2016

59 “[Men Only: Inside the charity fundraiser where hostesses are put on show](#)”, Financial Times, 23 January 2018; The Fawcett Society (SHW0030)

60 Equality and Human Rights Commission (SHW0057)

61 National Education Union (NEU) (SHW0022)

62 Government Equalities Office, [Equality Act 2010—employer liability for harassment of employees by third parties: a consultation](#), 2012

settled or withdrawn, with only one known case reaching tribunal hearing.⁶³ Despite this, there was widespread, if not universal, support in our inquiry for introduction of measures similar in effect to those that were repealed.⁶⁴ The CBI, for example, argued that

That repeal [of the section 40 provisions] has created doubt—not least in the mind of victims—about whether employers have a legal duty in instances of sexual harassment at work by a third party is damaging. The CBI believes that putting this duty beyond doubt by reintroducing section 40 would make a positive contribution to tackling sexual harassment at work. Alongside this, government should produce new guidance to help employers and employees understand this duty.⁶⁵

Many argued that the ‘three strikes’ element of the original provisions should be discarded, and that a single instance of harassment should be sufficient for action.⁶⁶

39. The Government argued at the time of repeal that other avenues of legal redress were available for employees who felt their employers had failed to take reasonable steps to protect them from third party harassment. These included section 26 of the Equality Act, health and safety law, the common law duty of care, the law on constructive dismissal and the Protection from Harassment Act 1997. Early in 2018 the Government reaffirmed its view that the repealed provisions had been “unnecessary, confusing and little used”, and that section 26 and the general protection against harassment in the workplace afforded by the Act were sufficient.⁶⁷

40. The Court of Appeal ruled in May 2018, however, that third party harassment is not in fact covered by section 26, except in very limited and specific circumstances. Lord Justice Underhill stated in his judgment in the matter of *Unite the Union v Nailard* that the Equality Act “no longer contains any provision making employers liable for failing to protect employees against third party harassment as such”, and concluded that the availability of third party liability was now a matter for Parliament.⁶⁸ The Minister for Women, Victoria Atkins MP, told us that the Government was “very actively considering” what steps to take in response to the judgment.⁶⁹ At the time of writing it was not known whether an application to appeal this judgment would be granted.

41. If the judgment in the *Nailard* case stands, it would mean that the Equality Act can no longer be deemed sufficient to offer protection to employees against a failure to address third party harassment. None of the alternative legal routes cited by the Government when repealing section 40 offer a straightforward route to holding an employer to account

63 Government Equalities Office, [Equality Act 2010: Employer liability for harassment of employees by third parties, Government response to the consultation](#), October 2012

64 The Law Society ([SHW0042](#)); The Bar Council ([SHW0061](#)); The Everyday Sexism Project ([SHW0051](#)); Rape Crisis England and Wales ([SHW0045](#)); YESS Law ([SHW0049](#)); National Education Union (NEU) ([SHW0022](#)); Unite the union ([SHW0035](#)); Close the Gap ([SHW0040](#)); CM Murray LLP ([SHW0019](#)); TUC ([SHW0031](#)); The Fawcett Society ([SHW0030](#)); Member of the public ([SHW0004](#)); Ms Roseanne Russell ([SHW0011](#)); [Q502](#) [Aileen McColgan]; [Q184](#) [Max Winthrop]; [Q274](#); Federation of Small Business ([SHW0073](#)); EEF ([SHW0048](#)); Law Society of Scotland ([SHW0039](#)).

65 CBI ([SHW0064](#))

66 For example, *Unite the union* ([SHW0035](#)); YESS Law ([SHW0049](#)); CM Murray LLP ([SHW0019](#)).

67 PQ 125693 [on harassment], 6 February 2018; Government Equalities Office ([SHW0050](#))

68 [Unite the Union v Nailard](#) [2018] EWCA Civ 1203 (24 May 2018)

69 [Q580](#)

for preventing this type of harassment. If the judgment stands, we believe that a new protection must be put in place, and this should not be restricted to cases where there were previous occurrences of harassment as was the case under the original section 40.

Protecting volunteers and interns

42. Volunteers are not expressly protected from harassment under the Equality Act and case law indicates that most volunteer arrangements and many internships do not satisfy the tests for employment status. The status of interns under the Act likely depends on whether the individual has an obligation to do work or whether they are in fact a volunteer.⁷⁰ Individuals in the workplace who are entitled to protection include employees, job applicants, contract workers, partners, LLP members, barristers, office-holders and apprentices.⁷¹ There seems to us to be little reason why an organisation that makes use of volunteers and interns should not be responsible for ensuring that they too can work in an environment free from harassment, especially as they can be some of the most vulnerable people in an organisation.⁷²

43. **Everyone in the workplace should be protected from sexual harassment, regardless of whether they have a contract of employment or similar contract for services or who the harasser is.**

44. *If the judgment in **Unite the Union v Nailard** stands, the Government should bring forward legislation to place a positive duty on employers expressly to protect workers from harassment by third parties and to ensure that employers can be held liable for failure to take reasonable steps to protect staff from third party harassment. This must not be restricted to cases where there were previous occurrences of third party harassment.*

45. *The Government should extend the protections relating to harassment in the Equality Act 2010 to interns and volunteers so that they are entitled to the same protections as the wide range of individuals in the workplace who are already protected.*

Changing expectations about behaviour

46. People have differing views about what behaviours constitute sexual harassment. This can vary markedly according to sex and age; for example, younger women are more likely to find wolf-whistling offensive than men of any age and older women. Some witnesses argued that sexual harassment could be caused unintentionally, or at least that perpetrators could be unaware of the level of upset and offence caused by their behaviour.⁷³ In law a behaviour can be sexual harassment whether or not the perpetrator meant to harass the victim.

47. Verbal harassment and sexualised ‘jokes’ that may be made by some people on a daily basis can have the effect of creating environments in which discrimination and

70 Mid Sussex Citizens Advice Bureau and another [2012] UKSC 59; [2013] IRLR 76; South East Sheffield Citizens Advice Bureau v Grayson [2004] IRLR 353; Melhuish v Redbridge Citizens Advice Bureau [2005] IRLR 419; Murray v Newham Citizens Advice Bureau UKEAT/1096/99

71 Equality Act 2010; [sections 39–53](#)

72 [Q482](#); [Q26](#)

73 The Law Society ([SHW0042](#)); Civil Mediation Council ([SHW0087](#))

harassment thrive.⁷⁴ We are concerned by the evidence that many people, particularly women, feel that behaviours that could constitute sexual harassment are so normalised and commonplace that they should just put up with them.⁷⁵ This feeling is reinforced when colleagues and others—'bystanders'—see the behaviour but do not step in to support the victim or challenge the perpetrator. A particular issue for both victims and bystanders can be knowing how to challenge unwanted or offensive behaviours in the moment, particularly if they fear being victimised or left unsupported as a result. As Dr Rachel Fenton, a researcher into bystander intervention, explained,

the environment in which [the harassment] happens is really important, in terms of what other people's reactions are [...], how supportive they are of what you are suggesting and how other people around you act and respond. If you are met by a sea of silence and nobody shows any kind of solidarity, it reinforces that reporting is not the right thing to do.⁷⁶

We received evidence of cases where co-workers had either encouraged the offensive behaviour or had belittled or further victimised the victim for complaining about or reporting it.

48. More needs to be done to raise workers' awareness of how the law on sexual harassment protects them and what behaviours are unacceptable in the workplace. Taking action to address the social attitudes that underlie and facilitate sexual harassment is a requirement for the Government under its international obligations to tackle violence against women.⁷⁷

49. All workers are entitled to a safe working environment, free from sexual harassment. It is incumbent on the Government, the Equality and Human Rights Commission and employers to make clear to all those in the workplace, including clients, customers and volunteers that all workers are entitled to be treated with respect. Employers must take responsibility for setting out within their organisation the kind of behaviours that are unacceptable and what might constitute sexual harassment or a sexual offence. However, there is also a need for wider, large-scale awareness-raising work to change the culture that enables sexual harassment to go on unchallenged.

50. *The Government should work with Acas, the Equality and Human Rights Commission and employers on an awareness-raising campaign. This should include information on: the behaviours that might constitute sexual harassment; employers' responsibility to protect workers from sexual harassment and victimisation; actions that workers can take if they are sexually harassed; how employers should help workers to challenge inappropriate behaviours; enforcement processes including tribunals; whistleblowing laws; and legal and ethical use of confidentiality clauses in settlement agreements.*

74 Paula McDonald, "Workplace Sexual Harassment 30 Years on: A Review of the Literature", *International Journal of Management Reviews* 14(1) (2012), pp. 1–17

75 Equality and Human Rights Commission ([SHW0057](#)); The Everyday Sexism Project ([SHW0051](#)); NGO Safe Space ([SHW0038](#)); Close the Gap ([SHW0040](#))

76 [Q328](#)

77 UN, [Convention on the Elimination of All Forms of Discrimination Against Women](#), Article 5; Council of Europe, [Convention on preventing and combating violence against women and domestic violence](#), Article 12.

2 Require regulators to take a more active role

Summary

51. Regulatory regimes have a crucial part to play in setting expectations for employers. Regulators, inspectorates and professional bodies should be placing and reinforcing incentives on employers to tackle workplace sexual harassment, ensuring that it becomes and remains a high priority for the sectors and organisations they oversee. With that in mind, we find the passivity and indifference of regulators in the face of widespread workplace sexual harassment to be not only surprising, but gravely irresponsible.

The role of regulators

52. We have been surprised and disappointed by the failure of regulators to take an active interest in employers' actions to protect workers from sexual harassment. It suggests that these bodies may not have been having due regard to the need to eliminate discrimination, including sexual harassment, under the Public Sector Equality Duty (PSED). Guidance is clear that the PSED requires regulators, inspectorates and ombudsmen to consider how to meet the duty in their functions; this includes their regulatory framework.⁷⁸

The Health and Safety Executive

53. Sexual harassment in the workplace is a serious health and safety concern, but we were astonished to find that the Health and Safety Executive (HSE) does not see tackling or investigating it as part of its remit. The HSE told us that there is no specific duty under health and safety legislation regarding sexual harassment, and that law on sexual harassment was for the Equality and Human Rights Commission (EHRC) and the police to enforce.⁷⁹ Its then Head of Operational Strategy, Philip White explained that the main focus of its work as it might relate to sexual harassment in the workplace was on “what we would consider violence and aggression, particularly from third parties”.⁸⁰ Mr White agreed that the HSE had a role in making sure that workplaces have practices that keep people safe from violence at work, but did not agree that this included responsibility for sexual harassment—the most common form of violence against women: “We do not see this as a mainstream health and safety at work issue under the Health and Safety at Work Act”.⁸¹

54. We understand that the HSE must prioritise its use of resources, but we cannot accept that sexual harassment is not sufficiently serious to be worthy of its attention. We note that HSE guidance on work-related violence lists sexual harassment as a potential form of verbal abuse but not as a form of physical violence.⁸² The HSE's website has guidance on issues including temperature in the workplace, noise levels and working with young people, but nothing specifically on sexual harassment. We are deeply concerned that the

78 Equality and Human Rights Commission, [Essential Guide for English public bodies](#), July 2014

79 [Q419](#)

80 [Q418](#)

81 [Qq428–432](#)

82 Health and Safety Executive, [Work-related violence](#), accessed on 9 July 2018

HSE’s analysis of the potential for harm caused by sexual harassment appears to be cursory and ill-informed. We suspect that this issue has simply been ignored, as it has been by employers themselves, but we are perplexed that it continues to reject the suggestion that it should now be taking action.

The Equality and Human Rights Commission

55. The Equality and Human Rights Commission has primary responsibility for regulating employer actions to tackle harassment, and has been active since December 2017 in conducting research and making recommendations for change to the Government, many of which we support. It is striking, however, that sexual harassment specifically as an area of focus did not feature in any of the organisation’s annual reports in the decade since its establishment in 2007. By contrast, the final annual report of the predecessor gender equality regulator, the Equal Opportunities Commission, published in 2007, lists reducing sexual harassment in the workplace as a strategic objective and details both enforcement work undertaken with specific employers and legal action taken to clarify the law on sexual harassment.⁸³ The EHRC’s Legal Director, Elizabeth Prochaska, admitted that

all organisations working on this—and I count the EHRC as one of them—were caught off guard, in a sense, by the #MeToo movement and simply had been focusing on other issues over the last decade.⁸⁴

56. We heard that the EHRC was, at the time of giving oral evidence, considering four potential enforcement actions in relation to sexual harassment, an increase from zero in the previous year.⁸⁵ In explanation for this surprisingly low number, Elizabeth Prochaska told us that the Commission found it difficult to “get our hands on the evidence”:

Individual victims of harassment are not coming to us in significant numbers. We have not received very many requests for individual funding, nor have we been given very much evidence about particular organisations where there may be a potential enforcement action. [...] There is a real issue there but that reflects the general problem with reporting of sexual harassment.⁸⁶

Other bodies

57. The EHRC is not the only regulator waiting for cases and evidence to come forward. The Solicitors’ Regulation Authority (SRA) told us that there had been 23 reports of sexual misconduct by solicitors relating to their colleagues since November 2015. We put it to the SRA’s Chief Executive, Paul Philip, that this number seemed low, and asked whether he had made an assessment of how many unreported cases there might be in the profession. He responded:

83 Equal Opportunities Commission, [Annual Report and Accounts 2006–7](#), July 2007

84 [Q299](#)

85 [Q291](#)

86 [Qq292–294](#)

No, I find it very difficult to understand how we would go about doing that. [...] Basically, we would need the evidence that there is inappropriate behaviour. That would need, ultimately, for those women to come forward and all the issues that brings.⁸⁷

The SRA did inform us about work it had undertaken to raise awareness about workplace sexual harassment “in light of the recent focus” on this issue; for example, a firm’s approach to preventing sexual harassment now routinely features in the rolling programme of meetings held by its Regulatory Management team.⁸⁸

58. Ofsted told us that its school inspection framework refers to sexual harassment, but that specific information about levels of sexual harassment and about how a school protected employees would only be sought “if it came up”, which it rarely does. Ofsted inspectors do, however, have mandatory training on safeguarding which includes a section on sexual harassment, and an inspection would take place sooner than planned if complaints were made by staff or pupils about sexual harassment.⁸⁹

59. Megan Butler of the Financial Conduct Authority told us that regulatory attention was a “key incentive” for focusing the financial services industry on sexual harassment.⁹⁰ The certification regime for senior managers that is being rolled out across the industry holds leaders responsible for the cultural values of their businesses, and for determining whether key staff are ‘fit and proper’ for their roles. The ‘fit and proper’ test does not explicitly require a history of sexual harassment issues to be considered,⁹¹ but it

encompasses the whole of that individual. We do not believe that a culture that tolerates sexual harassment and other forms of behavioural misconduct will encourage a ‘safe to speak up’ environment, an environment where the best business decisions get taken and where the best risk decisions get taken. So [...] we expect firms to take all of those aspects into account when they look at whether their key individuals are fit and proper to do their roles.⁹²

Nonetheless, Ms Butler estimated that, out of around 1,500 whistleblowing complaints made to the FCA over the last couple of years, only “nine or so” related to sexual harassment, which perhaps suggests that its interest in this area is not widely recognised.⁹³ The FCA has not, to date, taken enforcement action against a firm for failing to prevent sexual harassment.

60. Regulators are uniquely placed to oversee employer action to protect workers from sexual harassment. This is a health and safety issue, and several regulators have responsibility for overseeing this aspect of employers’ activities. The Health and Safety Executive in particular must take up its share of the burden of holding employers to account if they fail to take reasonable steps to protect workers from sexual harassment. This could include issuing guidance on the actions that employers could take, including undertaking specific risk assessments, and investigating reports of particularly poor practice.

87 [Qq228–230](#)

88 Solicitors Regulation Authority ([SHW0021](#))

89 [Qq441–451](#)

90 [Q417](#)

91 [Q458](#)

92 [Q452](#)

93 [Q459](#)

61. *Regulators who do not take steps to address sexual harassment in their sectors are failing in their Public Sector Equality Duty. The Government should require all regulators to put in place an action plan setting out what they will do to ensure that the employers they regulate take action to protect workers from sexual harassment in the workplace.*

62. *Regulators must make it clear that sexual harassment by regulated persons is a breach of regulatory requirements by the individual and their organisation, that such breaches must be reported to the appropriate regulator, and that such breaches must be taken into account when considering the fitness and propriety (or equivalent) of regulated individuals and their employers. Perpetration of or failure to address sexual harassment in the workplace must be recognised as grounds for failing a 'fit and proper person' test or having professional credentials removed. Regulators should also set out the sanctions for perpetrators of sexual harassment in their sectors. The victim themselves, however, should not be under any obligation to report, nor should they face sanctions for failing to report to their regulator.*

3 Make enforcement processes work better for employees

Summary

63. There is a lack of appropriate support for victims of sexual harassment in the workplace, and the systems that should help those who want to take forward a complaint are not working well enough. So, not only do victims bear the burden of holding harassers and employers to account, with all the risk that that entails, but they are hindered in doing this by poor employer practices and a tribunal system that does not meet their needs. The tribunal system must be an effective remedy for employees, and the threat of tribunal must be an incentive for employers to ensure they have proper systems in place to prevent sexual harassment and deal with such behaviour appropriately, including through proper investigation of allegations.

Employers' policies and procedures: the need for a code of practice

64. We have already made the case, in Chapter 1, for a mandatory duty on employers to take action to protect workers from harassment and for a statutory code of practice to support them in doing this. Evidence that we received from individuals about the effect of poor employer policies and practices show why it is important to ensure that robust, fair and effective systems are in place. Even where policies and practices are in place, these are unlikely to be effective if they are not supported by action to uphold the law, training and culture change.

Box 4: How employers respond to complaints of sexual harassment: individuals' experiences

"I was told 'I am just jealous, I want more hours, and to shut up and get on with it.' I spoke out against them, I got suspended, and I left on the same day, so I could continue to speak out against them."

"I talked to my boss about the issue, who told me to stay away from the individual concerned and block any calls. I was moved to another project. I asked about reporting the man's actions to his company, but was told that it was my word against his, that he would certainly deny it, that it might damage the relationship between the two companies or put the contract—multi-million and several years duration—at risk."

"When I complained informally I was ignored. When I raised a formal grievance the behaviour of my employer became extremely hostile. [...] My employer had a lengthy grievance procedure that looked impressive on paper, but the reality was that the aim was not to listen and learn from complaints but to protect the employer."

"The issue was not investigated other than asking the Senior Director if he had done it, then the company officially branding me a liar when the Senior Director denied it, [...] making the continuance of my role untenable."

“My confidentiality was not respected. The details of my complaint were disclosed in its entirety to him. The policy was that I had to be advised if this was going to happen and that I had protection as a whistleblower. Instead I was subject to ostracisation, intimidation and bullying.”

Written evidence from members of the public⁹⁴

“Sexual harassment / assault was supposedly forbidden in their code of conduct. When the incident was reported their only concern was their reputation, and they wanted to make sure I would not speak out or sue them.”

Individual’s story from submission by NGO Safe Space⁹⁵

“My GP and local rape crisis centre have been tremendously supportive... My employer has been abysmal. The knowledge, support and professionalism of rape crisis services has been lifesaving.”

Individual’s story from submission by EHRC⁹⁶

“It took me filing a complaint against him with the police and a letter of concern to my HR manager for my employer to actually do something about his advances and prevent him speaking to me, and even then they changed my shift and disrupted my life. Not his.”

Individual’s story from submission by 38 Degrees⁹⁷

65. Sue Coe, Principal for Work and Employment at the EHRC, told us that their survey of employers showed that one in six employers had done nothing to ensure that people making a complaint of sexual harassment were not victimised. Those who said they had taken action were often only able to point to a policy as evidence: “It was words on a policy rather than rounded practice that brought it to life.”⁹⁸ Kathryn Nawrockyi, consultant and campaigner on gender inequality, bullying, harassment and sexual misconduct, also highlighted the importance of backing up policy with “a bigger programme of culture change and internal campaigning within an organisation.”⁹⁹ Yvonne Traynor of Rape Crisis agreed that it was important to have an “active policy”.¹⁰⁰

66. One reason that employers may not be taking actions to protect workers from sexual harassment is that they are unsure what they should do. This may be indicated by how rarely employers defending claims try to set out the steps they have taken to prevent harassment. Joanna Blackburn, partner at Mischoon de Reya, told us

There is an opportunity for employers to be able to avoid liability for discriminatory acts if they can show that they have taken all reasonable steps to prevent the wrong that has been done. I had a straw poll with various

94 A member of the public ([SHW0078](#)); A member of the public ([SHW0079](#)); A member of the public ([SHW0012](#)); A member of the public ([SHW0015](#)); A member of the public ([SHW0009](#))

95 NGO Safe Space ([SHW0038](#))

96 Equality and Human Rights Commission ([SHW0069](#))

97 38 Degrees ([SHW0025](#))

98 [Q276](#)

99 [Q338](#)

100 [Q333](#)

colleagues in my firm and others. We have never used it and seen it used. Why is that? Ordinarily, if there is a defence on a piece of legislation, you would see that being picked up and used. It is because lawyers feel uncertain that they can advise their clients that they have done all things that were reasonable to stop the discriminatory act, and it is employers feeling that they do not know what they are supposed to be able to do.¹⁰¹

A code of practice would help give employers the advice and direction they need about the steps they should be taking.¹⁰²

67. It is essential that employers have suitable policies, systems and practices in place to prevent sexual harassment and to ensure that reports of such behaviour are dealt with appropriately. However, these will work only if they are supported and championed by leaders and if managers and workers receive specific and relevant training and support. The code of practice should set out the actions that employers should be taking in all these areas to meet the new duty. We highlight below some of the main elements that should be in the statutory code of practice.

68. We support the EHRC’s recommendation that the Government should introduce a statutory code of practice on sexual harassment in support of the mandatory duty. This code would specify the steps that employers should take to prevent and respond to sexual harassment, and which can be considered in evidence when determining whether the duty has been breached. Tribunals should have the discretion to apply an uplift to compensation of up to 25 per cent in harassment claims where there has been a breach of mandatory elements of the statutory code.

Specific guidance that the code of practice should include

Reporting procedures, including access to anonymous reporting

69. Most sexual harassment in the workplace is never reported.¹⁰³ Reasons for under-reporting include the victim’s fear of being blamed for the incident or of experiencing retaliation for reporting, and a fear of negative consequences for their job, career or relationships at work.¹⁰⁴ Victims may not want to re-live distressing events, may feel embarrassed, and may doubt that what they have experienced was serious enough to report or happened at all.¹⁰⁵ Close the Gap told us that, because sexual harassment happens to many women many times in their lives, it becomes “so normalised or minimised that women are resigned to their experiences not being taken seriously, and so they do not report”.¹⁰⁶ The Centre for Gender and Violence Research stated:

[V]ictims who have bravely spoken out (often at considerable personal and professional risk) have found their claims dismissed or undermined or

101 [Q481](#)

102 [Q485](#)

103 TUC ([SHW0031](#)); Dr Julia Shaw, Rashid Minhas and Camilla Elphick ([SHW0037](#)); The Everyday Sexism Project ([SHW0051](#)); BBC Radio 5 Live – *Sexual harassment in the workplace 2017*, survey by ComRes, October 2017

104 Close the Gap ([SHW0040](#)); National Union of Journalists ([SHW0029](#)); Dr Julia Shaw, Rashid Minhas and Camilla Elphick ([SHW0037](#))

105 Dr Sandra Fielden ([SHW0068](#)); Mr Danny Hardie ([SHW0002](#))

106 Close the Gap ([SHW0040](#))

minimised. They have often seen no action taken, and this drives a further cycle of silence, especially when other victims can observe that speaking out achieves nothing and come to have little trust in the system.¹⁰⁷

70. For some women, leaving their job is a more rational response than making a complaint. Yvonne Traynor of Rape Crisis told us that “the women that complain about sexual harassment want it to stop. In their minds, the way for it to stop is to leave that organisation.”¹⁰⁸ She reflected on the evidence Rape Crisis had gathered on under-reporting and employer handling of complaints:

women tend to take responsibility for themselves and feel that maybe there was something that they did for it to happen, and they feel ashamed and do not want anyone to know about what happened. It is really hard for women to come forward and talk about it. [...] organisations are not good at dealing with it. Women are seen as a bit of a problem. They are complainers, they are holding grievances and are bringing the organisation into disrepute because there are not enough robust systems to help them to complain about what is going on.¹⁰⁹

71. Other witnesses also highlighted the importance of good employer handling of complaints to counter the current lack of confidence in reporting procedures among victims. Some described how victims lose confidence when they see other cases being mishandled or dismissed or met with hostility, intimidation or further victimisation.¹¹⁰ One HR professional who submitted evidence stated:

There is frequently a stronger drive to maintain the status quo than to deal with the harassing behaviour. Reporters of harassment can be seen as troublemakers or liars, and all too often find themselves unemployed after reporting these incidents.¹¹¹

72. The ‘Justice’ Project at the Centre for Gender and Violence Research has looked at why sexual abuse and sexual harassment cases need to be handled with particular care. The project found that victims want to be listened to, to have the harm they have suffered be recognised, to see the perpetrator held accountable instead of being further victimised themselves, and to have choice, control and voice in the process.¹¹² A code could encompass best practice guidance, informed by specialists, about how to achieve this.

73. The EHRC and others have suggested that anonymous and confidential reporting might help to improve employer practice and employee confidence.¹¹³ Danny Hardie, a welfare officer, suggested that “having an independent support line, or advocacy service would be a good first step” towards achieving those aims, adding:

107 Centre for Gender and Violence Research, University of Bristol ([SHW0089](#))

108 [Q328](#)

109 [Q328](#)

110 Close the Gap ([SHW0040](#)); Dr Julia Shaw, Rashid Minhas and Camilla Elphick ([SHW0037](#))

111 A member of the public ([SHW0015](#))

112 Centre for Gender and Violence Research, University of Bristol ([SHW0089](#))

113 [Q4](#); [Q285](#)

Victims often fear being ridiculed, belittled or seen as trouble making for raising the issue. To have a confidential, independent service to talk with and be supported by would be a good way to help victims minimize shame and stand up for themselves.¹¹⁴

Neil Carberry of the CBI told us that some employers were already implementing anonymous hotlines, in partnership with external organisations, as a first step to reporting.¹¹⁵ Elizabeth Prochaska, Legal Director at the EHRC acknowledged that there were could be data protection issues to consider with anonymous reporting, but that “it is being done in other jurisdictions and it is being done increasingly here”.¹¹⁶

Investigating allegations, including when a settlement agreement is reached

74. The way that allegations of sexual harassment are investigated by employers is central to showing that they are serious about stamping out sexual harassment in the organisation. We are concerned that some allegations of sexual harassment are being ‘dealt with’ using settlement payments and agreements that prevent the employee from speaking about the alleged behaviour, without those allegations ever being investigated and without any sanctions for perpetrators. We discuss the use of such agreements, known as non-disclosure agreements, in more detail in Chapter 4.

75. If allegations are not investigated or even spoken about, this can lead to repeat offending by the same perpetrator and reinforces a culture in which such behaviour is seen as normal or acceptable. In the worst cases, offending can be an open secret within an organisation or more widely, with perpetrators being seen as untouchable. Kathryn Nawroycki described how organisations can close ranks to protect senior managers when they are accused of sexual harassment:

Quite often, harassment is perpetrated by a senior person to a more junior person. It is very difficult to challenge up the hierarchy in an organisation. [...] It is very typical that organisations will close ranks and protect their more powerful, senior people, even if they know they have crossed a line. It does not take long for that to become very common knowledge amongst employees: that, quite frankly, the organisation would rather keep them there being successful, earning money and doing whatever else, and make that slightly awkward, complaining, more junior person over there go away.¹¹⁷

76. The evidence we have received indicates areas of serious weakness and poor practice in employers’ handling of sexual harassment in the workplace. The aim of a code of practice should be to show employers what they need to do and to help them understand what a comprehensive and appropriate response looks like.

114 Mr Danny Hardie ([SHW0002](#))

115 [Q4](#)

116 [Q322](#)

117 [Q328](#)

77. *The code of practice to support the mandatory duty should set out good practice guidance on matters including:*

- *reporting systems and procedures and what employers should provide as a minimum, including guidance on anonymous reporting and any relevant data protection issues that arise;*
- *support for victims, including access to specialist support and steps that should be taken to prevent victimisation of complainants;*
- *how to investigate and record complaints, including a presumption that all complaints should be investigated unless there is a compelling reason not to;*
- *how to identify when sexual harassment allegations may include criminal offences and how to conduct any investigation in a manner which does not prejudice any potential police investigation and criminal prosecution;*
- *training, induction, risk assessments and other policies and practices; and*
- *alternative dispute resolution including mediation, and risk assessments.*

The tribunal system

78. Given the high proportion of workers who have experienced sexual harassment, there is a surprisingly low number of successful employment tribunal claims for harassment of a sexual nature. Government data on tribunal claims is not detailed enough to provide figures specifically on claims alleging sexual harassment, but the EHRC has estimated that in the past year only eight such claims were successful at hearing, with a further six being unsuccessful and four being withdrawn or settled.¹¹⁸ This does not include cases that may have been settled at Acas conciliation. However, we have no reason to believe that a large number of such cases are settled at that stage.

79. Employment lawyers told us that the tribunal system is off-putting to victims of sexual harassment in the workplace,¹¹⁹ and this was supported by the evidence we received from some individuals.¹²⁰ Taking a case to tribunal may exacerbate the victimisation of the claimant in their workplace.¹²¹ Michael Reed, Principal Legal Officer at the Free Representation Unit (FRU) outlined some of the reasons why people are put off making a claim through the tribunal system:

people are often still in the workplace when this happens and face difficult choices. You may go to a lawyer who will tell you, ‘This is unlawful. You can bring a case in the Employment Tribunal’ but immediately you are going to think, ‘How is that going to affect my career? How is that going to affect my progression?’ or in other areas of the economy and in other jobs, ‘Am I still going to have a job next week if that is what I do?’¹²²

118 Equality and Human Rights Commission ([SHW0091](#))

119 [Q166](#) [Gareth Brahams]; [Q176](#); [Q481](#) [Aileen McColgan, Michael Reed]; [Q507](#) [Joanna Blackburn]

120 A member of the public ([SHW0012](#)); Anonymous ([SHW0013](#)); A member of the public ([SHW0046](#))

121 [Q481](#)

122 [Q481](#) [Aileen McColgan, Michael Reed]

Legal costs

80. Employment lawyers told us that legal costs are a significant barrier to bringing a case to tribunal. Gareth Brahams, the then Chair of the Employment Lawyers Association, described people having to spend “huge sums of money”,¹²³ and Joanna Blackburn, Partner at Mischon de Reya, told us that “cost and inequality of arms” was the greatest barrier to bringing forward a case, adding:

but that is true of all legal cases involving individual versus corporate, or the vast majority. Normally the employer outguns the employee in terms of resource. That is an inherent issue in the system and one that I am afraid you are not going to be able to solve because we are not going to have legal aid for employment cases again. Even that does not really assist, because the thresholds were so low for legal aid and the reality is that the costs of bringing tribunal claims are significant.¹²⁴

81. Suzanne McKie QC, and Francesca West of whistleblower charity Public Concern at Work, described how claimants were sometimes threatened with being pursued for the employer’s legal costs as well as their own in order to encourage settlement.¹²⁵ Francesca West stated:

I have seen such heavy-handed tactics in relation to a last-ditch effort trying to scare someone off their claim by throwing enormous, not really supportable, cost threats at the door of the tribunal to say, ‘You had better drop that claim or we will be pursuing you for £100,000 worth of costs’.¹²⁶

82. It is expensive to secure legal representation, but it is very difficult to win a claim without it.¹²⁷ Trying to take a forward an employment tribunal case without legal representation is a daunting prospect, as described by Michael Reed of the Free Representation Unit:

Asking people to run a sexual harassment case, when they are challenging evidence, assembling evidence, making legal argument, when in many cases they have no training to do that and they may not have the educational background or the language skills, they can be vulnerable in all sorts of ways that makes that incredibly daunting. They are often entering a very alien, very intimidating environment.¹²⁸

Low compensation awards

83. The high cost of bringing an employment tribunal claim is not matched by the potential for high compensation awards; indeed, successful claimants may not even be awarded enough to cover their costs. Compensation is calculated to cover financial losses arising from the harassment and a sum for injury to feelings. Awards for injury to feelings are unlikely to exceed £43,000, and in most cases will be much lower than that, with the lowest awards at around £800.¹²⁹ If there is no financial loss—for example when the

123 [Q166](#)

124 [Q507](#)

125 [Q167](#); [Q238](#)

126 [Q238](#)

127 [Q481](#)

128 [Q508](#)

129 [Q16](#)

claimant remains in their job while claiming—then the injury to feelings sum would be the only compensation payable. Karon Monaghan QC of Matrix Chambers and employment lawyer Clare Murray agreed that low awards were a disincentive to going to tribunal and that punitive awards might help to counter that effect.¹³⁰ Clare Murray compared the low awards available in the UK to the punitive damages available in the equivalent process in the US, and argued that increasing potential penalties would focus employers' minds:

It is about having the sort of sanction and potential remedy that not only will encourage victims to feel there is a meaningful remedy and not so much risk if they bring a claim in terms of costs—and we should address costs risks as well—but, equally, will capture the attention of employers.¹³¹

84. If the cost risks of going to tribunal outweigh the likely benefit for the majority of potential claimants then the system cannot be working properly. Moreover, the lowest-paid workers are least likely to be able to take forward a case even though high levels of sexual harassment occur in low pay sectors such as retail, hospitality and services, and among workers in temporary or casual work. Employees who have a strong case against their employer must not be priced out of justice. There must be a threat of strong sanctions to encourage employers to take appropriate action.

85. *The Government should improve the remedies that can be awarded by employment tribunals and the costs regime to reduce disincentives to taking a case forward. Tribunals should be able to award punitive damages and there should be a presumption that tribunals will normally require employers to pay employees' costs if the employer loses a discrimination case in which sexual harassment has been alleged.*

Time limits

Box 5: Tribunal time limits: an individual's experience

“I didn't know about [employment tribunals] and I would never have been able to contemplate pursuing this within the short timeframe. I was in no way able to write down let alone speak about what had happened so immediately afterwards.”

Written evidence from a member of the public¹³²

86. Harassment claims must be made to the employment tribunal within three months of the act of harassment complained of, or the last in a series of acts if the claimant can show that there is a continuing act, where discrimination extends over a period of time, as with a campaign of harassment. This time limit is automatically extended when there is early conciliation conducted by Acas, but there is no automatic extension to allow time for employer's internal complaint procedures to be completed. This places an additional pressure on the potential claimant to decide whether to submit a claim when they may be engaged in a potentially difficult and stressful internal grievance procedure. This will necessarily mean either paying for legal advice on whether to pursue a tribunal claim or attempting to navigate the system without legal advice. Michael Reed of the Free

130 [Q16](#); Oral evidence taken on 13 June 2018, HC 701, [Q125](#)

131 [Q16](#)

132 A member of the public ([SHW0043](#))

Representation Unit told us that employment tribunal time limits are “bizarrely short compared with all the other areas of the civil justice system”, with “time limits measured in years” for personal injury and breach of contract claims in the courts. He went on:

In employment you have three months, which is not a lot of time in practice where something has happened and you are absorbing the blow of that, you are thinking about what to do, you are talking to other people and then you may be trying to get advice. You are trying to fund advice. You are trying to get an appointment with the Citizens Advice Bureau or something like that. That whole process can take weeks or months. It is not that people can step out of the incident and walk around to their lawyer and say, ‘I need some advice and can we think about putting a claim in?’ Of course, people are trying to resolve these things very often in the workplace, as they should do, rather than immediately going to the tribunal.¹³³

87. The CBI suggested that the limit could be paused to allow time for grievance procedures to run their course:

employment tribunal rules can force a claimant to choose between seeking to resolve their issue in the workplace and their ability to access the employment tribunal as a backstop. Time limits within which a worker must submit a sexual harassment claim to tribunal are a sensible step to protect the interests of workers and businesses. But the rule does not serve the interests of either party if the progress towards an amicable resolution is disrupted by a claim being submitted to tribunal earlier than either party would have wanted. Flexibility to pause this time limit while both parties complete a workplace grievance process—like the rules ensuring that participating in Acas Early Conciliation never causes your right to bring a claim to tribunal to expire—should be an option that exists.¹³⁴

Such a pause mechanism would be an improvement on the current arrangements, but it would not help those who no longer work for that employer. Nor would it help those who do not report their harassment straight away, as is common with all types of sexual offences. The limit is therefore likely to have a disproportionate impact, as barrister Aileen McColgan told us, “when it is applied to people who have been subject to sexual harassment and psychologically damaged, as is often the case”.¹³⁵

88. The EHRC has recommended that the limitation period for harassment claims in an employment tribunal should be amended to six months from the latest of the date of the act of harassment, the last in a series of incidents of harassment, or the exhaustion of any internal complaints procedure. Victims need more time to take decisions. Employment lawyers, legal experts and others agreed that the three-month time limit was too short and should be extended.¹³⁶ However, employment lawyer Joanna Blackburn warned that having separate limits for harassment claims compared with other discrimination claims

133 [Q484](#)

134 CBI ([SHW0064](#))

135 [Q481](#)

136 [Q484](#); [Q26](#) [Clare Murray, Christine Payne]

would be confusing and might lead to other claimants missing shorter deadlines, adding that consistency was important for both employers and employees. Aileen McColgan and Michael Reed agreed that time limits should be extended for all discrimination claims.¹³⁷

89. Our predecessor Committee also looked at tribunal time limits in its report on pregnancy and maternity discrimination. In its recommendations it supported a Justice Committee recommendation that the Government review the three-month time limit for bringing a claim in maternity and pregnancy discrimination cases, suggesting that six months would be a more suitable time limit.¹³⁸ The Government suggested in its response that there was insufficient evidence of a need to extend the time limit. It noted that tribunals had “a broad power to extend the time in which a case can be heard, where it is just and equitable to do so”. The Government also stated that it would “consider what further guidance can be provided to parties about the existing flexibilities, in order to clarify the position and respond to the concerns raised to the committee” and that it would keep the matter under review.¹³⁹

90. In July 2018, the Parliamentary Under-Secretary at the Ministry of Justice, Lucy Frazer QC MP, told us that the Government had been collecting data which showed that in 2017 an extension of the time limit was granted in 21 pregnancy and maternity cases, with none being refused.¹⁴⁰ However, she also noted that judges might have been treating extension requests more leniently in that time because of suggestions that claims may have been delayed by concerns about tribunal fees. While these figures are useful in showing how judges are exercising their discretion, they do not help to uncover how many potential claimants have been put off making a claim altogether by the time limit, which is still a significant barrier. Elizabeth Prochaska, Legal Director at the EHRC, explained why the EHRC was recommending an extension to the time limit rather than seeking to raise awareness about the potential extension:

There are two things there. One is that we as an organisation and you as parliamentarians cannot dictate a judge’s discretion. That will always depend on the facts of the case so there is always uncertainty about what factors will be taken into account in discretion. The second point to make is that, as a legal advisor giving someone advice on whether or not to bring a harassment claim—or indeed a pregnancy or maternity discrimination claim—you would have to advise your client that if they had missed the three-month deadline there was a significant risk that their claim would be struck out. That is yet another obstacle to people deciding to take the claim. No competent legal advisor would say, ‘I am confident the discretion will be exercised in your favour,’ because you can never be confident about the exercise of a judicial discretion.¹⁴¹

91. We agree with the Equality and Human Rights Commission, employment law experts and business representatives that the three-month time limit for harassment claims is not long enough to allow employers and employees to pursue alternative

137 [Q484](#)

138 Women and Equalities Committee, First Report of Session 2016–17, [Pregnancy and maternity discrimination](#), HC 90

139 [Government response to the House of Commons Women and Equalities Committee report on pregnancy and maternity discrimination](#), Cm 9401, January 2017

140 [Qq559–561](#)

141 [Q311](#)

means of resolving cases. This places an unnecessary pressure on potential claimants to submit a claim before they know whether they want to go to tribunal. It also hinders alternative approaches to resolution by requiring parties to consider early conciliation and to prepare for a tribunal hearing while internal grievance procedures may be ongoing. Requiring victims of sexual harassment to gamble on judicial discretion is unfair and constitutes another barrier to making a claim.

92. *The Government should extend the time limit for lodging a tribunal claim in cases of sexual harassment to six months and pause the countdown until employers' internal complaint and grievance procedures are completed. This should be done as part of a wider review of the time limit in all discrimination cases.*

Protections for victims and claimants

93. We are concerned that victims making claims within the tribunal system do not necessarily have access to the significant protections and specialisms available in the criminal justice system for complainants of sexual offences. This is despite the fact that many forms of sexual harassment constitute criminal offences, including sexual offences.¹⁴² The protections and specialisms available in the criminal justice system include: lifelong anonymity for those alleging sexual offences;¹⁴³ specialist support through the Independent Sexual Violence Adviser (ISVA) scheme;¹⁴⁴ specially-trained police and prosecutors in many areas;¹⁴⁵ a prohibition on the defendant cross-examining the complainant in court and a range of special measures in court such as screens and video link evidence;¹⁴⁶ and specially-trained, 'ticketed' judges to hear cases involving the most serious crimes. In addition, good data is available at every stage of the criminal justice system—for example, on prevalence of specific offences, police reports, prosecutions and trial outcomes. This data has demonstrated high numbers of cases falling out of the system and has helped with the development of policy responses.

94. Employment lawyer Andrew Taggart told us that he had seen some of these protections used, although not in sexual harassment cases, and agreed that consideration could be given to making them more widely available:

If there is evidence that suggests that these sorts of cases are not being brought, absolutely there should be a review done as to whether the employment tribunal system should be modified, so that individuals can give evidence, for example, on a televised screen. That happens already. I have been involved in a case, not for sexual harassment, but where an individual gave evidence over a screen. Sometimes you come up against the principles of open justice, but I do not see why the employment tribunal system cannot look at new ways of allowing individuals to pursue their claims.¹⁴⁷

142 Oral evidence taken on 13 June 2018, HC 701, [Q120](#)

143 Sexual Offences (Amendment) Act 1992, [section 1](#)

144 Home Office, [The Role of the Independent Sexual Violence Adviser: Essential Elements](#), September 2017

145 Metropolitan Police, [What happens after you report rape or sexual assault?](#), accessed 18 July 2018

146 Crown Prosecution Service, [Special measures: legal guidance](#), accessed 18 July 2018

147 [Q233](#)

95. Legal experts told us that orders restricting the reporting of the name of an individual involved in a case can be granted by tribunals.¹⁴⁸ Joanna Blackburn told us that she had never known a tribunal not to grant a restricted reporting order in a case where they are bringing a claim of sexual harassment¹⁴⁹. However, such orders last only until the tribunal judgment, whereas section 1 of the Sexual Offences (Amendment) Act 1992 gives complainants of sexual offences a right to lifelong anonymity. Andrew Taggart suggested that anonymous reporting could be granted more widely in discrimination cases:

If someone does not want to go through the trauma of giving evidence about how they were harassed on sexual orientation grounds, pregnancy grounds, race, religion or belief grounds, then it is right that courts should look at ways in which they can pursue those claims through a method that does not expose them to even more trauma.¹⁵⁰

96. We recognise that there are differences between tribunals and the criminal courts and that not all protections could be available in the same way. Nevertheless, the state still has obligations to ensure that victims' rights are protected under the Human Rights Act 1998 as well as under international obligations.¹⁵¹

97. Employment tribunal claimants alleging sexual harassment that could constitute a sexual offence should have access to similar protections to those available to complainants in sexual offence cases in the criminal justice system. *The Government should take immediate steps to close the gap in protection for complainants of sexual harassment and sexual violence in an employment context compared with complainants of sexual offences in a criminal justice context, regardless of whether they make a complaint to the police. This includes: lifelong anonymity; access to special measures in an employment tribunal, including not being cross-examined by the alleged perpetrator; and regular specialist training on sexual harassment for tribunal judges hearing these cases.*

Information gathering and the statutory questionnaire

98. A worker who is considering whether to bring an employment tribunal claim for sexual harassment might not have access to information that could support their claims, such as whether similar allegations have been made about the alleged perpetrator. When the Equality Act 2010 was originally enacted it provided a mechanism under section 138 for requesting this information using a statutory questionnaire. If there was no response to the questionnaire within eight weeks, or the responses provided were evasive, an employment tribunal could draw an inference of discrimination against the employer if there was other evidence of unlawful discrimination in the case.

99. Section 138 was repealed in 2013 following a Government consultation. The Government argued that the statutory questionnaire provisions had not increased settlements or reduced tribunal loads, but had created new burdens and risks for employers,

148 [Q507](#); [Q234](#); Oral evidence taken on 13 June 2018, HC 701, [Qq122-3](#)

149 [Q507](#)

150 [Q234](#)

151 UN, [Convention on the Elimination of All Forms of Discrimination Against Women](#); Council of Europe, [Convention on preventing and combating violence against women and domestic violence](#)

and that repeal would encourage settlement of claims.¹⁵² It also noted that there was little quantifiable evidence about the use or effect of the procedure. Workers who believe that they have been discriminated against still have the right to make a protected request for information under the Equality Act 2010. A tribunal may look at whether and how a responder has answered questions as a contributory factor in making its decision on a discrimination claim, but it cannot draw an inference of discrimination on that basis.¹⁵³ This procedure is thought to be little used, perhaps because of this apparent lack of teeth, with a lack of repercussions for an employer who fails to respond.¹⁵⁴

100. There was substantial support in the evidence we received for reintroducing the statutory questionnaire procedure, for example on the basis that it levelled the playing field between employees and employers by making information available allowing a claimant to establish the strength of their case.¹⁵⁵ We also heard that the process had been onerous for employers, especially if it was thought to be being used as what the CBI called “a fishing exercise”.¹⁵⁶ The Equality and Human Rights Commission recommended that an amended process could be arrived at through consultation, to ensure that it was effective and proportionate.¹⁵⁷ YESS Law suggested that a specific questionnaire could be drafted for cases where sexual harassment was alleged, removing the possibility that employees or their lawyers would ask lots of irrelevant questions that contributed to the burden on employers.¹⁵⁸

101. Access to information is an important tool for employees, and transparency is vital in ensuring that employers are held to account. Any procedure must, however, be proportionate, and there should be safeguards for employers against pernicious or careless use that elicits too much irrelevant information. A more tailored version of the statutory questionnaire, which previously enabled employees to request information about a potential discrimination claim, could achieve this. The Government should introduce a statutory questionnaire, consulting on whether standardised questions specifically for claims in which sexual harassment is alleged could be developed.

Power to make wider recommendations

102. Another provision from the original 2010 Act that was later repealed was the power under section 124(3)(b) for employment tribunals, when an employee won a discrimination case, to make recommendations to the employer about their practices and policies. The recommendations themselves were not enforceable, but if the employer failed to comply, a tribunal could take that failure into account in a future case of a similar nature.

103. The provision was repealed in 2015, with the Government stating that such powers were unnecessary, unenforceable and that little specific evidence had been advanced for the effectiveness of the measures. It suggested that requiring tribunals to go beyond

152 Government Equalities Office, [Equality Act 2010: Removing \(a\) employment tribunals’ power to make wider recommendations in discrimination cases; and \(b\) the procedure for obtaining information: a consultation](#), 2012

153 [“Asking and responding to questions of discrimination in the workplace: Acas guidance for job applicants, employees, employers and others asking questions about discrimination related to the Equality Act 2010”](#), Acas, January 2014

154 CM Murray LLP ([SHW0019](#))

155 [Q521](#); [Q6](#); [Q26](#); [Q35](#); CM Murray LLP ([SHW0019](#)); Unite the union ([SHW0035](#)); Ms Roseanne Russell ([SHW0011](#)); National Education Union (NEU) ([SHW0022](#)); TUC ([SHW0031](#)); The Everyday Sexism Project ([SHW0051](#))

156 CBI ([SHW0064](#)); EEF ([SHW0048](#)); [Q26](#)

157 Equality and Human Rights Commission ([SHW0057](#))

158 YESS Law ([SHW0049](#))

the case in question to matters which affect a business more generally would mean the tribunal “taking on the role of an equality consultant”. The Government also stated that it knew of only one case where an employment tribunal had used the power.

104. Arguments for reinstatement advanced during our inquiry included that wider recommendations have the potential to bring benefit to a whole workforce, not just an individual claimant, through improved workplace practices.¹⁵⁹ The National Education Union stated that, in the absence of such recommendations, employers would opt to “take the hit” of losing one tribunal case while avoiding looking at their structures or procedures.¹⁶⁰

105. A toxic organisational culture or poor management practices have the potential to make sexual harassment, along with other types of workplace discrimination, more prevalent. The ability of tribunals to make wider recommendations that draw on the lessons of individual cases to encourage a joined-up organisational response could have an important part to play in tackling these factors as part of a scheme of wider changes. *The Government should consider reintroducing tribunals’ powers to make wider recommendations to employers in discrimination cases.*

159 Chartered Institute of Personnel and Development ([SHW0033](#)); TUC ([SHW0031](#)); YESS Law ([SHW0049](#)); Unite the union ([SHW0035](#)); Equality and Human Rights Commission ([SHW0057](#)); Ms Roseanne Russell ([SHW0011](#)); The Fawcett Society ([SHW0030](#))

160 National Education Union (NEU) ([SHW0022](#))

4 Clean up the use of non-disclosure agreements (NDAs)

Summary

106. Non-disclosure agreements (NDAs) are used unethically by some employers and also some members of the legal profession to silence victims of sexual harassment, and there is insufficient oversight and regulation of their use. It is unacceptable that victims are scared to speak about their experiences of sexual harassment in the workplace and that those who use NDAs unethically are not held to account.

What is an NDA?

107. A non-disclosure agreement is a contract that contains clauses that restrict what a signatory can say, or who they can tell, about something. These clauses are also known as confidentiality or gagging clauses. Witnesses giving evidence to our inquiry used the term NDA in different ways. We have used it to refer to two different types of agreement that typically contain confidentiality provisions: employment contracts and settlement agreements.

NDAs in employment contracts

108. Employers may ask individuals to sign an NDA before they begin working for them. As the Government Equalities Office (GEO) sets out, “NDAs can form a legitimate part of an employment contract and [...] are important to protect trade secrets that could otherwise undermine a company’s competitiveness in the marketplace.”¹⁶¹ We acknowledge that NDAs have a legitimate use in employment contracts, but we are also concerned that they are being used unethically by some employers to prevent damaging stories about sexual harassment from surfacing. Christine Payne of Equity raised her concerns that non-disclosure agreements were being used more broadly in the entertainment sector to say that individuals “should not say anything about anything that goes on either in the casting process or in the workplace”. She told us that such an agreement implied that the individual would not be able to say anything about inappropriate behaviour in a casting session or on set, and that this was creating a “culture of fear and intimidation” for Equity members.¹⁶²

NDA use in settlement agreements

109. Settlement agreements are described by the GEO as providing “a way to resolve workplace disputes or end a working relationship without the need to go through the cost and stress (for both parties) of an Employment Tribunal hearing”.¹⁶³ Employment lawyers agreed that NDAs were important to enable victims of sexual harassment to get a settlement from their employer, particularly if the case could not be resolved through the employer’s grievance procedure.¹⁶⁴ Indeed, Gareth Brahams, the then Chair of the

161 Government Equalities Office ([SHW0050](#))

162 [Q37](#)

163 Government Equalities Office ([SHW0050](#))

164 [Q38](#); [Qq163–164](#); [Qq196–198](#) [Andrew Taggart]

Employment Lawyers Association, told us that in many cases no settlement would be agreed without a non-disclosure agreement.¹⁶⁵ Again, we acknowledge that there is a place for NDAs in settlement agreements; there may be times when a victim makes the judgement that signing an NDA is genuinely in their own best interests, perhaps because it provides a route to resolution that they feel would entail less trauma than going to court, or because they value the guarantee of privacy. However, we have grave concerns about their unethical use.

A chilling effect? The silencing of victims

110. We are concerned that NDAs are being widely used to silence victims of sexual harassment in the workplace and to prevent cases being brought into the public eye for fear of bad publicity. However, the confidential nature of these agreements makes it difficult to estimate out how many there are out there and to gauge how ethically they are being used. Barristers at 11KBW and Doughty Street Chambers have summarised the main risks from unethical use of NDAs in silencing victims as being that individuals will not report serious wrongdoing to the police; will feel compelled not to assist with relevant law enforcement investigations or prosecutions; and will feel unable to speak openly and in the public interest about serious wrongdoing, thus inhibiting public awareness and debate.¹⁶⁶

Box 6: Non-disclosure agreements: individuals' experiences

“Non-disclosure agreements are sometimes used as a threat against employees. I was told that I must sign a settlement agreement for no money, or I would be ‘bad-mouthed’, not given a reference, and my new employer would be called and told about the harassment claim.”

“The encouragement of signing the settlement agreement was made at the end of the day whilst I showed clear signs of anxiety, despair and hesitation in signing all my rights away.”

“Re the non-disclosure agreement, my solicitor [...] said in her view [the employers] were purposely trying to ramp up costs to add pressure on me. It was costing an amount beyond my means. I had no job. I was ill. [...] I had no choice but to agree to sign.”

Written evidence from members of the public¹⁶⁷

“Attempted to take the company to a tribunal. They made a settlement the evening before but I had to sign an NDA. My solicitors agreed to this but I wanted justice not to be gagged. I have never worked within a company since and have arranged my life to be self-employed.”

Individual's story from submission by 38 Degrees¹⁶⁸

111. We have heard deplorable examples of how NDAs have been used to threaten, bully and silence victims of sexual harassment. Shockingly, this unethical treatment has, in

165 [Q164](#)

166 Anya Proops QC, Aileen McColgan, Natalie Connor and Jennifer Robinson ([SHW0059](#))

167 A member of the public ([SHW0015](#)); Anonymous Anonymous ([SHW0013](#)); A member of the public ([SHW0012](#))

168 38 Degrees ([SHW0025](#))

some cases, been facilitated by members of the legal profession. Two high-profile cases in particular—the Presidents Club Dinner and the Zelda Perkins case—demonstrate how NDAs in employment contracts and settlement agreements can be used unethically and potentially unlawfully.

The Presidents Club Dinner

112. In January 2018, the *Financial Times* reported that 130 hostesses had been recruited to work at a charity event—the Presidents Club Dinner—which was “attended by 360 figures from British business, politics and finance and the entertainment” sector. The report described how hostesses were “groped, sexually harassed and propositioned” by dinner guests and how the agency that had employed them, Artista, “had an enforcement team, made up of suited women and men, who would tour the ballroom, prodding less active hostesses to interact with dinner guests.”¹⁶⁹ It also reported that when the hostesses had arrived at the venue to begin work, they had been required “to sign a five-page non-disclosure agreement about the event” and that they “were not given a chance to read its contents, or take a copy with them after signing.” The Law Society has questioned whether such an agreement would be legally binding, but has also pointed out that as its main purpose would be to intimidate those who signed it, “it is unlikely that the legality of the NDA would be tested”.¹⁷⁰

The Zelda Perkins case

113. We heard compelling evidence from Zelda Perkins about the very stringent NDA that she signed in 1998 when she reached a settlement agreement with her former employers, film producer Harvey Weinstein and film production company Miramax. She resigned when her complaint of sexual harassment was not resolved by her employer, stating:

I had to resign from the company, citing myself as constructively dismissed due to Mr. Weinstein’s inappropriate behaviour towards me throughout my employment and the attempted rape of my colleague. Our expectation was to prosecute Mr. Weinstein in seeking justice but due to the advice we were given at the time and the absence of any HR framework in the company, my colleague and I were told that we had no option other than to enter into an agreement with Mr. Weinstein and The Miramax Corp., accepting a financial damages settlement and signing a stringent and thoroughly egregious non-disclosure agreement.¹⁷¹

114. Ms Perkins described feeling pressured during the process of reaching the agreement, and feeling “unhappy with the entire process and the entire agreement”.¹⁷² One of the most shocking aspects of the agreement was that Ms Perkins was not allowed a copy of it, and was permitted only to view it where it was held at a law firm’s office. Legal experts told us that they would consider it “wrong” and unethical not to provide a copy of an NDA to all parties who had signed it and that they would never advise a client to sign such an agreement.¹⁷³

169 [“Men Only: Inside the charity fundraiser where hostesses are put on show”](#), *Financial Times*, 23 January 2018

170 The Law Society ([SHW0042](#))

171 Zelda Perkins ([SHW0052](#))

172 [Q66](#)

173 [Q187](#); [Q147](#)

115. Other aspects of the NDA signed by Ms Perkins also caused us considerable concern. She gave us an overview of the restrictions, stating:

It is a morally lacking agreement on every level. There are clauses in there that preclude me and my colleague from not only speaking to our friends, colleagues and family about our time at Miramax and what happened, but speaking to any medical practitioner, any legal representative, the Inland Revenue, an accountant or a financial adviser. We can speak to those people, as long as they sign their own non-disclosure agreement before they can enter into any conversation with us about anything. However, even within that, once they had signed that, we were still under pressure to not name anybody with whom any of the events happened. [...] It does not say specifically that we cannot speak to the police, but we have to use our best endeavours, and we have to assist the company in keeping a positive environment.¹⁷⁴

116. We were particularly struck by Zelda Perkins' evidence that she feared she would "probably go to jail" if she broke the terms of the agreement.¹⁷⁵ Professor Richard Moorhead commented that this was not surprising, as it was not uncommon for lay participants in civil and family justice to assume that they are at risk of prison when they are not.¹⁷⁶ In addition, we have been contacted by individuals who were too fearful of the potential repercussions of breaking an NDA to give evidence to this inquiry, even anonymously.

117. We were also struck by Ms Perkins' evidence about the effects that the case and the NDA had on her wellbeing and career. She described feeling "emotionally and psychologically drained, exhausted and disillusioned, having lost total faith in the legal system" finding it "impossible to find employment in the film industry" and "with no option other than to leave the UK and attempt to reconstruct life" elsewhere.¹⁷⁷

Use of unenforceable and unethical clauses in NDAs

118. Any NDA clause designed to prevent a worker from making a disclosure in the public interest—also known as whistleblowing or making a protected disclosure—would be void under section 43J of the Employment Rights Act 1996. However, an individual who has signed an NDA containing such a clause might not be aware that this part of the NDA could not be enforced if it was breached. Even if they suspected that it was not enforceable, they would probably need legal advice to work out whether they were entitled to protection under whistleblowing laws, which are set out in the Public Interest Disclosure Act 1998 (PIDA).

119. Under PIDA, protected disclosures include disclosures about malpractice, breaches of the law, miscarriages of justice, dangers to health, safety and the environment, or the cover-up of any such behaviour. If an individual is victimised or dismissed for making a protected disclosure, they can bring an employment tribunal claim for compensation. An individual who wanted to make use of these whistleblowing protections would need to be sure that the law applied to them and the circumstances in their case. Individuals

174 [Qq52–53](#)

175 [Q89](#)

176 Professor Richard Moorhead ([SHW0062](#))

177 Zelda Perkins ([SHW0052](#))

who can make protected disclosures include employees, police officers, NHS staff and other types of worker. For the disclosure to qualify as protected it would have to be made to a “prescribed person” as listed in the Act. C M Murray LLP outlined some of the organisations and postholders who qualify as prescribed persons and suggested that the list should be expanded to increase protection:

The list of prescribed persons includes the Independent Police Complaints Commission, police and crime panels, the National Crime Agency, elected local policing bodies, the FCA, Secretary of State for Business, Energy and Industrial Strategy, the Prudential Regulation Authority and a number of other regulatory bodies. [...] However, it is notable that the list does not include the Solicitors Regulation Authority, the police, the Institute of Chartered Accountants in England and Wales, Public Concern at Work, ACAS or the Equality and Human Rights Commission. [...] These omissions limit the scope of the legislation and we believe that the list should be extended to ensure the maximum protection for workers.¹⁷⁸

Gareth Brahams told us that the law on protected disclosure was “quite complicated” and “should be reformed to make it clear—as a matter of public policy—that going to the police would never be a breach of an agreement that would be enforceable”.¹⁷⁹

120. We were concerned to hear from Francesca West of the whistleblowing charity Public Concern at Work that it is not uncommon for her charity to find potentially unenforceable confidentiality clauses in settlement agreements. She described the confusing and potentially conflicting wording and legalese sometimes found in such agreements:

We run an advice line for UK workers. [...] What I would describe as a classic situation [...] is someone calling, telling us that they cannot tell us what has been happening because of the settlement agreement. We will ask them to forward that agreement so we can take a look at it. What we would normally see is quite a heavy-handed confidentiality clause on one page and then, maybe a few pages later, a reference to part IVA of the Employment Rights Act and that ‘nothing in this agreement shall affect your rights under that Act’. To most individuals that wording is totally opaque, but it is referring to the whistleblowing provisions and the anti-gagging section as well. A lawyer may feel that they have covered their obligation to flag that, but an individual, particularly a litigant in person, who is looking at these two competing statements is quite understandably totally confused as to whether or not they can go on to make a disclosure.¹⁸⁰

Ms West also suggested that many disclosures about sexual harassment would qualify as protected disclosures, but that the current design of whistleblowing legislation was “unhelpful for the vast majority of individuals.”¹⁸¹

121. Employment lawyer Andrew Taggart agreed that there was “a lack of understanding on the part of the individual as to what the real effect of the non-disclosure or confidentiality provision is.” He went on:

178 CM Murray LLP ([SHW0019](#))

179 [Q163](#)

180 [Q196](#)

181 [Q197](#)

most of them have never heard of the legislation. It is not spelled out sufficiently clearly in the documentation, so that they would know that it does not prevent them from going to a regulatory authority or indeed taking legal advice, as many of them may think. I have had experience on phone lines acting for charities where the individual says, ‘I don’t know if I can even speak to you about this matter. I have signed up to a confidentiality agreement’.¹⁸²

Mr Taggart also suggested that the Government, Acas and charities could do more to communicate what the effect of non-disclosure and confidentiality agreements really is and that there are real limitations to them.

Regulation of members of the legal profession

Unethical practice

122. We have been particularly concerned by the evidence we have heard about members of the legal profession facilitating the unethical use of NDAs. Ms Perkins described how the agreement that she signed was reached following “a week of aggressive interrogation and negotiations [...] carried out by representatives of Allen and Overy and the Miramax lawyer from the U.S. office”. She went on:

This was a bewildering experience that was akin to being under siege with grueling sessions lasting many hours, on one occasion running from 5pm until 5am. Enormous amounts of pressure were put on us and our representatives which, considering we were the victims of the situation, was inappropriate, intimidating and frightening.¹⁸³

123. We also heard from Mark Mansell, a lawyer at Allen and Overy who had been directly involved in the Zelda Perkins case as a representative for Harvey Weinstein and Miramax. We were unable to discuss that case in detail because of client confidentiality, but we were able to ask about the ethics of including some of the most restrictive clauses in that NDA. When we asked how common it was for people who signed NDAs not to receive copies of them, Mr Mansell admitted that it was “extremely rare”.¹⁸⁴ We also asked about the ethics of using an NDA to require an individual to limit the scope of disclosure as far as possible in a criminal process. Mr Mansell drew a distinction between answering specific questions, which he stated that the individual should “definitely” be able to do, and “information that somebody could voluntarily disclose that they do not necessarily need to”.¹⁸⁵ Professor Richard Moorhead likened this approach to the children’s game battleships:

As a strategy for dealing with interviews this reminds me of the children’s game Battleships; the police can guess what might be relevant but [Zelda] Perkins cannot volunteer for them the location of what they seek. It points to the first problem with this approach: it suggests that the NDA was designed

182 [Q197](#)

183 [Zelda Perkins \(SHW0052\)](#)

184 [Qq98–99](#)

185 [Qq101–103](#)

to shape the evidence that would be presented to the police—or others engaged in lawful legal process—governed by ideas of relevance influenced by [Allen and Overy’s] clients.¹⁸⁶

124. Professor Moorhead suggested that discouraging the voluntary disclosure of evidence in a criminal process could be seen as perverting the course of justice. When we asked Mr Mansell if provisions on limiting disclosure could be seen as perverting the course of justice, he replied that he could “see how people might view it that way”.¹⁸⁷ When pressed on whether he regretted having drawn up the NDA in that way, he stated:

In terms of that particular provision, I do not believe that it would have prevented Ms Perkins from participating in a criminal process. It required certain steps to be gone through. If I were dealing with that today, I would make it clearer that the ability to participate in a criminal process was not in any way restricted.¹⁸⁸

125. Ms Perkins’ case has been described as “extreme” by Gareth Brahams, who urged caution when considering how the law should be changed to address concerns about NDAs, stating that there “would be very severe unintended consequences if you were going to use that as your standard case for sexual harassment”.¹⁸⁹

126. We accept that some of the clauses in Ms Perkins agreement were unusual and that current whistleblowing protections were introduced after her NDA was signed. However, there is ample evidence, not least from the Presidents Club case, to suggest that law and practice around the use of NDAs needs to be tightened. Indeed, in the wake of reports about the Presidents Club case, the Prime Minister said that the Government would look at how to address this issue.¹⁹⁰ Justice Minister Lucy Frazer QC MP told us that the Ministry of Justice had been looking at the existing legal framework and that the Department for Business, Energy and Industrial Strategy (BEIS) was looking at whether there are any gaps in employment law relating to NDAs.¹⁹¹

Action by regulators

127. The main regulators of the legal profession are the Solicitors Regulation Authority (SRA) and the Bar Standards Board (BSB). The BSB stated in its written evidence that it had not issued regulatory guidance on non-disclosure agreements but that it was considering doing so. It also set out that when a barrister is involved in drafting an NDA they must abide by the rules in the BSB Handbook, including acting in the best interests of each client, acting with honesty and integrity and not behaving in a way that is likely to diminish the trust and confidence that the public places in them or the profession.¹⁹²

186 Professor Richard Moorhead ([SHW0062](#))

187 [Q104](#)

188 [Q111](#)

189 [Q165](#)

190 “Presidents Club: Theresa May ‘appalled’ at men-only gala groping claims”, BBC news, 25 January 2018; “Possible ‘criminal offences’ committed at Presidents Club dinner” Financial Times, 25 January 2018; “Non-disclosure agreement rules to be reviewed after Presidents Club scandal, No 10 says” The Guardian, Politics live with Andrew Sparrow blog, 25 January 2018

191 [Q536](#)

192 The Bar Standards Board ([SHW0044](#))

128. The SRA drew our attention to the guidance it published in March 2018 advising solicitors on the use of NDAs. This included a new Warning Notice on the use of NDAs intended to raise awareness of the risks and to remind law firms and solicitors that potential professional misconduct, including sexual harassment, must be reported to the regulator.¹⁹³ However, when we asked the Chief Executive of the SRA, Paul Philip, about the SRA's enforcement work on improper use of NDAs, he admitted that there was “not very much”, with only three open cases he knew of. He added that in 2016 a solicitor had been disciplined in front of the Solicitors Disciplinary Tribunal for a compromise agreement that sought to stop reporting of particular behaviour to the regulator.¹⁹⁴

129. We were particularly disappointed by apparent lack of rigour in the SRA's approach to investigating whether there had been unethical practice by the lawyers involved in the Zelda Perkins case. Paul Philip told us that the SRA had spoken to Allen and Overy's compliance officer in November 2017 but had not then taken further action until April 2018, after we had taken evidence in public from Zelda Perkins and Mark Mansell. He stated:

“[W]e spoke to the firm on 28 November last year. We spoke to the compliance officer. They very usefully gave us all sorts of information about the types of procedures you would expect to be in place in relation to this type of thing in a large law firm today, but this matter happened 20 years ago. We decided at that point in time that we would wait to see what further information came to light. Further information subsequently came to light and we opened up a case.¹⁹⁵

Conclusion

130. **The use of non-disclosure agreements (NDAs) must be better controlled and regulated to ensure that they are not used unethically in cases where sexual harassment is alleged. It is vital that employees have access to information about the responsible and legal use of confidentiality clauses and that lawyers are held to account for using or attempting to use such clauses in an unethical way. We are encouraged that the SRA has issued guidance on reporting sexual harassment and the use of NDAs in sexual harassment cases and hope that the Bar Standards Board and the Bar Council also issue guidance. However, the regulators must also demonstrate that members of the legal profession will face serious sanctions if they sexually harass clients or colleagues or if they misuse NDAs to silence victims of sexual harassment.**

131. *The Government should legislate to require the use of standard, approved confidentiality clauses. These should include clear, plain English wording setting out the meaning, effect and limits of confidentiality clauses, including a clear explanation of what disclosures are protected under whistleblowing laws and cannot be prohibited or restricted.*

193 Solicitors Regulation Authority ([SHW0021](#))

194 [Q214](#)

195 [Q218](#)

132. *The definition of protected disclosures and prescribed persons under whistleblowing legislation should be widened to include disclosures of sexual harassment to the police and all regulators, including the Equality and Human Rights Commission and Health and Safety Executive, and to any court or tribunal.*

133. *The Government should make it an offence for an employer or their professional adviser to propose a confidentiality clause designed or intended to prevent or limit the making of a protected disclosure or disclosure of a criminal offence.*

134. *Use of provisions in confidentiality agreements that can reasonably be regarded as potentially unenforceable should be clearly understood to be a professional disciplinary offence for lawyers advising on such agreements.*

5 Collect robust data

135. A recurrent theme of this inquiry has been a lack of awareness about the extent of sexual harassment in the workplace, the number of cases being taken forward through internal grievance procedures and the effectiveness of different means of resolution. Low reporting levels and the use of non-disclosure agreements contribute to the difficulty in getting a clear picture of the situation. Without robust data about prevalence and outcomes, the Government cannot gauge whether policy interventions, legal changes and enforcement processes are effective in making workplaces safer, and cannot demonstrate that it is meeting its international obligations to tackle sexual harassment.¹⁹⁶

136. An obvious source of potential data is that on employment tribunal claims. Data is already collected on the type of claims going to tribunal and the outcome of those claims, but this data is not granular enough to give statistics on claims alleging harassment of a sexual nature. The EHRC has made its own estimate of the number and outcome of tribunal claims alleging sexual harassment in the past year, which provides a useful indicator. This required the Commission's legal department to search for claims recorded under the relevant jurisdictional code of sex discrimination and perform a key word search for 'harassment'.¹⁹⁷ Such estimates are inevitably not as robust as tribunal-collected figures and are not generally available to the wider public. The Ministry of Justice has acknowledged that attempting to identify sexual harassment cases in tribunal records is at present complex and too susceptible to subjective interpretation to produce reliable figures.¹⁹⁸ When we asked Justice Minister Lucy Frazer QC MP whether tribunals should have the capability to collect data on the number of claims involving allegations of sexual harassment, she agreed that they should and highlighted how data can inform policy decisions. She added:

We are in [HM Courts and Tribunals Service] so the collection of data is something that is my responsibility and we are looking at whether we can collect this sort of data.¹⁹⁹

137. As we have set out, the very low number of claims that were successful at a tribunal hearing suggest that the tribunal system is not currently an effective means of holding employers to account. Robust, regularly collected tribunal data on claims alleging harassment of a sexual nature would help to show how effective the tribunal system is as a means of resolving cases and holding employers to account. However, tribunal data can show only a small part of the picture.²⁰⁰ The wave of surveys undertaken in response to the #MeToo movement shows the value of this kind of evidence for painting a true picture of the scale of the problem. The Equality and Human Rights Commission agrees that large-scale, reliable data needs to be collected at regular intervals in order to assess progress and inform changes in policy and practice.²⁰¹

196 UN Committee on the Elimination of Discrimination Against Women, [General recommendation No. 35 on gender-based violence against women](#), 2017, paras 27, 28, 48; Council of Europe, [Convention on preventing and combating violence against women and domestic violence](#), 2011, Article 11

197 Equality and Human Rights Commission ([SHW0091](#))

198 [Letter](#) from Parliamentary Under-Secretary of State for Justice, relating to time limits for pregnancy and maternity discrimination claims, 6 July 2018; [Qq548–549](#)

199 [Q549](#)

200 [Q19](#)

201 Equality and Human Rights Commission, [Turning the tables: ending sexual harassment at work](#), March 2018

138. The Minister for Women, Victoria Atkins MP, told us that she recognised that the Government recognised the need for better data on sexual harassment, particularly from employers:

We recognise the need for more data on this and you have heard Minister Frazer talk about the collection of data in tribunals. I am very conscious that by the time it has reached a tribunal it is too late because by then behaviour has happened that has placed the victim of that behaviour in a very difficult, often distressing situation. I think we should be asking questions about this of business alongside all the questions we already ask business, most recently with the gender pay gap reporting. We should be asking businesses what they are doing and what they feel their response is to sexual harassment and I am open to the Committee's recommendations as to how that might be best achieved.²⁰²

139. It is crucial, if we are to gauge the effect of actions being taken now to stamp out sexual harassment in the workplace, that robust and comparable data is collected at regular intervals.

140. The Government should collect data on the number of tribunal claims submitted involving allegations of harassment of a sexual nature and the outcome of such claims. As tribunal data alone tells only a small part of the story, the Government should commission large-scale surveys at least every three years to determine the prevalence and nature of sexual harassment in the workplace. The findings of each edition of the survey should be accompanied by an evaluation of measures taken in the preceding period to tackle sexual harassment, and an action plan responding to the findings.

Conclusions and recommendations

Put sexual harassment at the top of the agenda

1. Providing a workplace where employees have safety and dignity is no less important than other corporate responsibilities such as preventing money-laundering and protecting personal data. We call on the Government to establish a regime that ensures that it will be just as important to employers. (Paragraph 27)
2. We agree with the Equality and Human Rights Commission (EHRC) that the burden of holding perpetrators and employers to account on workplace sexual harassment is too great to be shouldered by individuals alone. Employers must have greater and clearer responsibilities for protecting workers from sexual harassment. (Paragraph 31)
3. *We support the recommendation of the Equality and Human Rights Commission that the Government should place a mandatory duty on employers to protect workers from harassment and victimisation in the workplace. Breach of the duty should be an unlawful act enforceable by the Commission and carrying substantial financial penalties. The duty should be supported by a statutory code of practice on sexual harassment and harassment at work which sets out what employers need to do to meet the duty.* (Paragraph 32)
4. The public sector should be leading the way on tackling and preventing sexual harassment, setting good practice examples that other employers can follow. We urge the Government to ensure that all public sector organisations take immediate action to protect workers from sexual harassment. (Paragraph 33)
5. *In the interim period before the mandatory duty is in place, the Government should direct public service employers to take immediate action to tackle and prevent sexual harassment in the workplace, including setting out unacceptable behaviours, how cases will be handled and the penalties for perpetrators.* (Paragraph 34)
6. *The Government should introduce a specific duty under the Public Sector Equality Duty requiring relevant public employers to conduct risk assessments for sexual harassment in the workplace and to put in place an action plan to mitigate those risks. Action plans should set out how cases will be investigated and include guidance on penalties for perpetrators.* (Paragraph 35)
7. Everyone in the workplace should be protected from sexual harassment, regardless of whether they have a contract of employment or similar contract for services or who the harasser is. (Paragraph 43)
8. *If the judgment in *Unite the Union v Nailard* stands, the Government should bring forward legislation to place a positive duty on employers expressly to protect workers from harassment by third parties and to ensure that employers can be held liable for failure to take reasonable steps to protect staff from third party harassment. This must not be restricted to cases where there were previous occurrences of third party harassment.* (Paragraph 44)

9. *The Government should extend the protections relating to harassment in the Equality Act 2010 to interns and volunteers so that they are entitled to the same protections as the wide range of individuals in the workplace who are already protected. (Paragraph 45)*
10. All workers are entitled to a safe working environment, free from sexual harassment. It is incumbent on the Government, the Equality and Human Rights Commission and employers to make clear to all those in the workplace, including clients, customers and volunteers that all workers are entitled to be treated with respect. Employers must take responsibility for setting out within their organisation the kind of behaviours that are unacceptable and what might constitute sexual harassment or a sexual offence. However, there is also a need for wider, large-scale awareness-raising work to change the culture that enables sexual harassment to go on unchallenged. (Paragraph 49)
11. *The Government should work with Acas, the Equality and Human Rights Commission and employers on an awareness-raising campaign. This should include information on: the behaviours that might constitute sexual harassment; employers' responsibility to protect workers from sexual harassment and victimisation; actions that workers can take if they are sexually harassed; how employers should help workers to challenge inappropriate behaviours; enforcement processes including tribunals; whistleblowing laws; and legal and ethical use of confidentiality clauses in settlement agreements. (Paragraph 50)*

Require regulators to take a more active role

12. Regulators are uniquely placed to oversee employer action to protect workers from sexual harassment. This is a health and safety issue, and several regulators have responsibility for overseeing this aspect of employers' activities. The Health and Safety Executive in particular must take up its share of the burden of holding employers to account if they fail to take reasonable steps to protect workers from sexual harassment. This could include issuing guidance on the actions that employers could take, including undertaking specific risk assessments, and investigating reports of particularly poor practice. (Paragraph 60)
13. *Regulators who do not take steps to address sexual harassment in their sectors are failing in their Public Sector Equality Duty. The Government should require all regulators to put in place an action plan setting out what they will do to ensure that the employers they regulate take action to protect workers from sexual harassment in the workplace. (Paragraph 61)*
14. Regulators must make it clear that sexual harassment by regulated persons is a breach of regulatory requirements by the individual and their organisation, that such breaches must be reported to the appropriate regulator, and that such breaches must be taken into account when considering the fitness and propriety (or equivalent) of regulated individuals and their employers. Perpetration of or failure to address sexual harassment in the workplace must be recognised as grounds for failing a 'fit and proper person' test or having professional credentials removed. Regulators should also set out the sanctions for perpetrators of sexual harassment

in their sectors. The victim themselves, however, should not be under any obligation to report, nor should they face sanctions for failing to report to their regulator. (Paragraph 62)

Make enforcement processes work better for employees

15. We support the EHRC's recommendation that the Government should introduce a statutory code of practice on sexual harassment in support of the mandatory duty. This code would specify the steps that employers should take to prevent and respond to sexual harassment, and which can be considered in evidence when determining whether the duty has been breached. Tribunals should have the discretion to apply an uplift to compensation of up to 25 per cent in harassment claims where there has been a breach of mandatory elements of the statutory code. (Paragraph 68)
16. *The code of practice to support the mandatory duty should set out good practice guidance on matters including:*
 - *reporting systems and procedures and what employers should provide as a minimum, including guidance on anonymous reporting and any relevant data protection issues that arise;*
 - *support for victims, including access to specialist support and steps that should be taken to prevent victimisation of complainants;*
 - *how to investigate and record complaints, including a presumption that all complaints should be investigated unless there is a compelling reason not to;*
 - *how to identify when sexual harassment allegations may include criminal offences and how to conduct any investigation in a manner which does not prejudice any potential police investigation and criminal prosecution;*
 - *training, induction, risk assessments and other policies and practices; and*
 - *alternative dispute resolution including mediation, and risk assessments.* (Paragraph 77)
17. If the cost risks of going to tribunal outweigh the likely benefit for the majority of potential claimants then the system cannot be working properly. Moreover, the lowest-paid workers are least likely to be able to take forward a case even though high levels of sexual harassment occur in low pay sectors such as retail, hospitality and services, and among workers in temporary or casual work. Employees who have a strong case against their employer must not be priced out of justice. There must be a threat of strong sanctions to encourage employers to take appropriate action. (Paragraph 84)
18. *The Government should improve the remedies that can be awarded by employment tribunals and the costs regime to reduce disincentives to taking a case forward. Tribunals should be able to award punitive damages and there should be a presumption that tribunals will normally require employers to pay employees' costs if the employer loses a discrimination case in which sexual harassment has been alleged.* (Paragraph 85)

19. We agree with the Equality and Human Rights Commission, employment law experts and business representatives that the three-month time limit for harassment claims is not long enough to allow employers and employees to pursue alternative means of resolving cases. This places an unnecessary pressure on potential claimants to submit a claim before they know whether they want to go to tribunal. It also hinders alternative approaches to resolution by requiring parties to consider early conciliation and to prepare for a tribunal hearing while internal grievance procedures may be ongoing. Requiring victims of sexual harassment to gamble on judicial discretion is unfair and constitutes another barrier to making a claim. (Paragraph 91)
20. *The Government should extend the time limit for lodging a tribunal claim in cases of sexual harassment to six months and pause the countdown until employers' internal complaint and grievance procedures are completed. This should be done as part of a wider review of the time limit in all discrimination cases.* (Paragraph 92)
21. Employment tribunal claimants alleging sexual harassment that could constitute a sexual offence should have access to similar protections to those available to complainants in sexual offence cases in the criminal justice system. *The Government should take immediate steps to close the gap in protection for complainants of sexual harassment and sexual violence in an employment context compared with complainants of sexual offences in a criminal justice context, regardless of whether they make a complaint to the police. This includes: lifelong anonymity; access to special measures in an employment tribunal, including not being cross-examined by the alleged perpetrator; and regular specialist training on sexual harassment for tribunal judges hearing these cases.* (Paragraph 97)
22. Access to information is an important tool for employees, and transparency is vital in ensuring that employers are held to account. Any procedure must, however, be proportionate, and there should be safeguards for employers against pernicious or careless use that elicits too much irrelevant information. A more tailored version of the statutory questionnaire, which previously enabled employees to request information about a potential discrimination claim, could achieve this. *The Government should introduce a statutory questionnaire, consulting on whether standardised questions specifically for claims in which sexual harassment is alleged could be developed.* (Paragraph 101)
23. A toxic organisational culture or poor management practices have the potential to make sexual harassment, along with other types of workplace discrimination, more prevalent. The ability of tribunals to make wider recommendations that draw on the lessons of individual cases to encourage a joined-up organisational response could have an important part to play in tackling these factors as part of a scheme of wider changes. *The Government should consider reintroducing tribunals' powers to make wider recommendations to employers in discrimination cases.* (Paragraph 105)

Clean up the use of non-disclosure agreements (NDAs)

24. The use of non-disclosure agreements (NDAs) must be better controlled and regulated to ensure that they are not used unethically in cases where sexual harassment is alleged. It is vital that employees have access to information about

the responsible and legal use of confidentiality clauses and that lawyers are held to account for using or attempting to use such clauses in an unethical way. We are encouraged that the SRA has issued guidance on reporting sexual harassment and the use of NDAs in sexual harassment cases and hope that the Bar Standards Board and the Bar Council also issue guidance. However, the regulators must also demonstrate that members of the legal profession will face serious sanctions if they sexually harass clients or colleagues or if they misuse NDAs to silence victims of sexual harassment. (Paragraph 130)

25. *The Government should legislate to require the use of standard, approved confidentiality clauses. These should include clear, plain English wording setting out the meaning, effect and limits of confidentiality clauses, including a clear explanation of what disclosures are protected under whistleblowing laws and cannot be prohibited or restricted.* (Paragraph 131)
26. *The definition of protected disclosures and prescribed persons under whistleblowing legislation should be widened to include disclosures of sexual harassment to the police and all regulators, including the Equality and Human Rights Commission and Health and Safety Executive, and to any court or tribunal.* (Paragraph 132)
27. *The Government should make it an offence for an employer or their professional adviser to propose a confidentiality clause designed or intended to prevent or limit the making of a protected disclosure or disclosure of a criminal offence.* (Paragraph 133)
28. *Use of provisions in confidentiality agreements that can reasonably be regarded as potentially unenforceable should be clearly understood to be a professional disciplinary offence for lawyers advising on such agreements.* (Paragraph 134)

Collect robust data

29. It is crucial, if we are to gauge the effect of actions being taken now to stamp out sexual harassment in the workplace, that robust and comparable data is collected at regular intervals (Paragraph 139)
30. *The Government should collect data on the number of tribunal claims submitted involving allegations of harassment of a sexual nature and the outcome of such claims. As tribunal data alone tells only a small part of the story, the Government should commission large-scale surveys at least every three years to determine the prevalence and nature of sexual harassment in the workplace. The findings of each edition of the survey should be accompanied by an evaluation of measures taken in the preceding period to tackle sexual harassment, and an action plan responding to the findings.* (Paragraph 140)

Formal minutes

Wednesday 18 July 2018

Members present:

Mrs Maria Miller, in the Chair

Tonia Antoniazzi	Vicky Ford
Sarah Champion	Jess Phillips
Angela Crawley	

Draft Report (*Sexual harassment in the workplace*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 140 read and agreed to.

Summary agreed to.

Resolved, That the Report be the Fifth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available (Standing Order No. 134).

[Adjourned till Wednesday 5 September 2018

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

Wednesday 31 January 2018

Question number

Neil Carberry, Managing Director, Confederation of British Industry, **Clare Murray**, Managing Partner, CM Murray LLP, **Christine Payne**, General Secretary, Equity, **Ksenia Zheltoukhova**, Head of Research, Chartered Institute of Personnel and Development.

[Q1–46](#)

Wednesday 28 March 2018

Zelda Perkins, former assistant to Harvey Weinstein.

[Q47–90](#)

Mark Mansell, Partner, Allen & Overy LLP, **Tamara Ludlow**, Partner, Simons Muirhead & Burton LLP.

[Q91–160](#)

Gareth Brahams, Chair, Employment Lawyers Association and Managing Partner at Brahams Dutt Badrick French LLP, **Suzanne McKie QC**, Founder, Farore Law and **Max Winthrop**, Chair of Employment Law Committee, Law Society.

[Q161–194](#)

Wednesday 25 April 2018

Paul Philip, Chief Executive, Solicitors Regulation Authority, **Andrew Taggart**, Partner for Employment, Pensions and Incentives, Herbert Smith Freehills LLP, **Francesca West**, Chief Executive, Public Concern at Work.

[Q195–244](#)

Susan Clews, Chief Operations Manager, Acas, **Diana Holland**, Assistant General Secretary for Transport, Equalities, Food and Agriculture, Unite, **Marion Scovell**, Head of Legal, Prospect.

[Q245–274](#)

Wednesday 16 May 2018

Sue Coe, Principal for Work and Employment, Equality and Human Rights Commission, **Elizabeth Prochaska**, Legal Director, Equality and Human Rights Commission.

[Q275–325](#)

Dr Rachel Fenton, Senior Lecturer, Law School, University of Exeter, **Kathryn Nawrockyi**, Consultant and campaigner on gender inequality, bullying, harassment and sexual misconduct, **Yvonne Traynor**, Chief Executive Officer, Rape Crisis South London.

[Q326–366](#)

Wednesday 23 May 2018

Jean Ashton OBE, Director of Business Services and Gender Champion, Crown Prosecution Service, **Clare Conaghan**, Executive Director of Human Resources, Save the Children, **Andrew Kean**, Deputy Director for Civil Service Employee Policy, **Sue Owen**, Permanent Secretary, Department for Digital, Culture, Media and Sport, and Civil Service Diversity and Inclusion Champion and **Julian Williams**, Chief Constable of Gwent Police and National Lead for Professional Ethics, National Police Chiefs' Council.

[Q367–414](#)

Megan Butler, Director of Investment, Wholesale and Specialist Supervision, Financial Conduct Authority, **Lorna Fitzjohn**, Regional Director for the West Midlands, Ofsted, **Dr Henrietta Hughes**, National Guardian for the NHS, National Guardian's Office, and **Philip White**, Head of Operational Strategy, Health and Safety Executive.

[Q415–479](#)**Wednesday 6 June 2018**

Joanna Blackburn, Partner, Mischon de Reya, **Aileen McColgan**, Barrister, 11KBW and Professor of Human Rights Law, King's College, London, **Michael Reed**, Principal Legal Officer, Free Representation Unit, **Liz Rivers**, Workplace and Employment Mediator.

[Q480–522](#)**Wednesday 13 June 2018**

Victoria Atkins MP, Minister for Women, Government Equalities Office, and **Lucy Frazer QC MP**, Parliamentary Under-Secretary, Ministry of Justice

[Q523–606](#)

Published written evidence

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

SHW numbers are generated by the evidence processing system and so may not be complete.

- 1 Anya Proops QC, Aileen McColgan, Natalie Connor and Jennifer Robinson ([SHW0059](#))
- 2 38 Degrees ([SHW0025](#))
- 3 A member of the public ([SHW0009](#))
- 4 A member of the public ([SHW0012](#))
- 5 A member of the public ([SHW0015](#))
- 6 A member of the public ([SHW0043](#))
- 7 A member of the public ([SHW0046](#))
- 8 A member of the public ([SHW0075](#))
- 9 A member of the public ([SHW0078](#))
- 10 A member of the public ([SHW0079](#))
- 11 A member of the public ([SHW0081](#))
- 12 A member of the public ([SHW0083](#))
- 13 A member of the public ([SHW0090](#))
- 14 A member of the public ([SHW0007](#))
- 15 A member of the public ([SHW0004](#))
- 16 Acas ([SHW0056](#), [SHW0067](#))
- 17 Andrew Shepherd ([SHW0074](#))
- 18 Anonymous ([SHW0013](#))
- 19 CARE International UK ([SHW0001](#))
- 20 CBI ([SHW0064](#))
- 21 Centre for Gender and Violence Research, University of Bristol ([SHW0089](#))
- 22 Chartered Institute of Personnel and Development ([SHW0033](#))
- 23 Civil Mediation Council ([SHW0087](#))
- 24 Close the Gap ([SHW0040](#))
- 25 CM Murray LLP ([SHW0019](#))
- 26 Dr Afroditi Pina ([SHW0034](#))
- 27 Dr James Hand ([SHW0084](#))
- 28 Dr James Hand and Dr Panos Kapotas ([SHW0085](#))
- 29 Dr Julia Shaw, Rashid Minhas and Camilla Elphick ([SHW0037](#))
- 30 Dr Sandra Fielden ([SHW0068](#), [SHW0071](#))
- 31 EEF ([SHW0048](#))
- 32 Equality and Human Rights Commission ([SHW0057](#), [SHW0069](#), [SHW0088](#), [SHW0091](#))
- 33 Federation of Small Business ([SHW0073](#))

- 34 Focus on Labour Exploitation (FLEX) ([SHW0016](#))
- 35 Free Representation Unit ([SHW0072](#))
- 36 Government Equalities Office ([SHW0050](#))
- 37 Health and Safety Executive ([SHW0077](#))
- 38 House of Commons ([SHW0070](#))
- 39 Incorporated Society of Musicians (ISM) ([SHW0027](#))
- 40 Institute of Directors ([SHW0086](#))
- 41 Law Society of Scotland ([SHW0039](#))
- 42 Michelle Russell ([SHW0063](#))
- 43 Mr Danny Hardie ([SHW0002](#))
- 44 Mr Mark Gilligan ([SHW0006](#))
- 45 Mrs Kirsten Burnett ([SHW0003](#))
- 46 Ms Kim Weeks ([SHW0028](#))
- 47 Ms Roseanne Russell ([SHW0011](#))
- 48 NASUWT ([SHW0054](#))
- 49 National Education Union (NEU) ([SHW0022](#))
- 50 National Union of Journalists ([SHW0029](#))
- 51 NGO Safe Space ([SHW0038](#))
- 52 Ofsted ([SHW0076](#))
- 53 Professor Clare McGlynn ([SHW0008](#))
- 54 Professor Lizzie Barmes ([SHW0053](#))
- 55 Professor Richard Moorhead ([SHW0062](#))
- 56 ProtectED ([SHW0041](#))
- 57 Rape Crisis England and Wales ([SHW0045](#))
- 58 Recruitment and Employment Confederation ([SHW0055](#))
- 59 Rose McGowan ([SHW0065](#))
- 60 Safely Spoken ([SHW0023](#))
- 61 Solicitors Regulation Authority ([SHW0021](#))
- 62 Stonewall ([SHW0020](#))
- 63 The Bar Council ([SHW0061](#))
- 64 The Bar Standards Board ([SHW0044](#))
- 65 The Everyday Sexism Project ([SHW0051](#))
- 66 The Fawcett Society ([SHW0030](#))
- 67 The Law Society ([SHW0042](#))
- 68 Tradesecrets UK ([SHW0032](#))
- 69 TUC ([SHW0031](#))
- 70 Unite the union ([SHW0035](#))
- 71 Vault (Vault Platform Ltd) ([SHW0024](#))

- 72 Victim Support ([SHW0036](#))
- 73 YESS Law ([SHW0049](#))
- 74 Young Women's Trust ([SHW0010](#))
- 75 Zelda Perkins ([SHW0052](#), [SHW0058](#))

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the [publications page](#) of the Committee's website. The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2017–19

First Report	Fathers and the workplace	HC 358 (HC 1076)
Second Report	The role of Minister for Women and Equalities and the place of GEO in government	HC 365
Third Report	Race Disparity Audit	HC 562
Fourth Report	Older people and employment	HC 359
First Special Report	Ensuring strong equalities legislation after the EU exit: Government Response to the Committee's Seventh Report of Session 2016–17	HC 385
Second Special Report	Implementation of Sustainable Development Goal 5 in the UK: Government and Office for National Statistics Responses to the Committee's Eighth Report of Session 2016–17	HC 426
Third Special Report	Fathers and the workplace: Government Response to the Committee's First Report of Session 2017–19	HC 1076