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These are the views of:	<i>Welsh Women's Aid (Third Sector) - the national charity in Wales working to end domestic abuse and all forms of violence against women.</i>

About Welsh Women's Aid

Welsh Women's Aid is the umbrella organisation in Wales that supports and provides national representation for independent third sector violence against women, domestic abuse and sexual violence (VAWDASV) specialist services in Wales (comprising our membership of specialist services and members of the regional VAWDASV Specialist Services Providers Forums).¹ These services deliver life-saving and life-changing support and preventative work in response to violence against women, including domestic abuse and sexual violence, as part of a network of UK provision.

As an umbrella organisation, our primary purpose is to prevent domestic abuse, sexual violence and all forms of violence against women and ensure high quality services for survivors that are needs-led, gender responsive and holistic. We collaborate nationally to integrate and improve community responses and practice in Wales; we provide advice, consultancy, support and training to deliver policy and service improvements across government, public, private and third sector services and in communities, for the benefit of survivors.

We also deliver direct services including, for example, the Welsh Government funded Live Fear Free Helpline and a National Training Service partnership. We are piloting the Survivors Empowering and

¹ Our membership of 22 third sector violence against women, domestic abuse and sexual violence specialist services in Wales, with whom we have national partnership agreements to ensure our work is coordinated and integrated includes: Aberconwy DAS, Atal y Fro, Bangor and District Women's Aid, Clwyd Alyn Housing Association (CAHA) Women's Aid, Stepping Stones, Safer Merthyr Tydfil, Carmarthen Domestic Abuse Service, Calan DVS, Cardiff Women's Aid, Cyfannol Women's Aid, Domestic Abuse Safety Unit (DASU), Gorwel (Grwp Cynefin), Montgomeryshire Family Crisis Centre, Newport Women's Aid, North Denbighshire Domestic Abuse Service, Port Talbot & Afan Women's Aid, RCT Women's Aid, Safer Wales (including Dyn Project), Swansea Women's Aid, Threshold, West Wales Domestic Abuse Service and Rape and Sexual Abuse Support Centre (RASASC) North Wales.

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Educating Services (SEEds) project, which is empowering survivors of violence and abuse to collectively influence and inform improvements in public services and commissioning frameworks, and help change attitudes.

We also deliver the Wales National Quality Service Standards (NQSS), a national accreditation framework for domestic abuse specialist services in Wales (supported by the Welsh Government) as part of a UK suite of integrated accreditation systems and frameworks. (More information on the NQSS can be found here: <http://www.welshwomensaid.org.uk/what-we-do/our-members/standards/>)

Welsh Women's Aid response to Government Equalities Office consultation on Sexual Harassment in the Workplace

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

Welsh Women's Aid has long campaigned for preventative work to end all forms of violence against women and girls. We are clear sexual harassment should be situated within this umbrella term as the drivers to it, as with all forms of VAWG, are inextricably linked to an entitlement to power. It is everyone's responsibility to prevent and condemn sexual harassment, and online sexual harassment including employers. The guidance for the Istanbul Convention clearly states that there should be criminal sanctions for anyone who sexually harasses another person. The UK Government has a responsibility to ensure it sends a zero-tolerance message that harassment will not be tolerated in any workplace. We support the EHRCs suggestion, laid out in the consultation document, that a mandatory duty should be placed on employers to protect workers from harassment. We also support the new This is Not Working alliance (made up of the TUC, Times Up, Fawcett Society, amongst others) which calls for a legal duty on employers to take preventative measures to ensure their workplaces are harassment free². Preventing harassment results in better outcomes both for the potential victim of harassment and the employer.

Preventing sexual harassment and tackling it at its source clearly makes good financial sense as well and benefits health services, economic output and other public services, such as emergency services. While the costs of sexual harassment are unknown, considering the scale of sexual harassment and significant impacts on women's wellbeing and economic opportunities, we can assume that there is a significant economic cost to society.

We would also call for UK Government to include online sexual harassment in the scope of this consultation, as this medium can be used to further abuse and harass an employee out of the work environment.

² <https://www.womensgrid.org.uk/?p=9976>



While we fully support a preventative approach, we are clear that employers should still be expected to respond where a case of harassment does happen, ensuring the safety and wellbeing of the victim of harassment and ensuring the perpetrator is held to account and not allowed to continue with impunity.

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

We are concerned that a duty to prevent alone may not see employers prioritise prevention and feel punitive measures may help in order to hold employers to account who do not comply. Over time this proactive approach to preventing harassment should lead to a culture change within organisations who may currently have an issue with harassment. However, we also know from a policy commitment to prevention in Wales, that the intent must be backed up with resources to support organisations. We appreciate the role of the EHRC in helping organisations to achieve a positive equality outcome, but in cases of sexual harassment, there must be a clear message from an employer (and ultimately government) that it will not be tolerated. Too often the person impacted by harassment is victim blamed for what they have experienced, particularly women, and are held responsible for the crimes committed against them. In turn, the perpetrator is not held to account and his behaviour is further normalised.

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

We feel enforcement from a third party both sends a clear message that harassment will not be tolerated but also protects the victim of harassment from having to come forward if they are not comfortable doing so. We also feel this will help to 'raise the profile' of harassment as something worth reporting, as daily harassment of women is so common, the behaviour has become normalised. Enforcement should be backed up with support for survivors such as the Times Up Helpline³ and in Wales, the Live Fear Free helpline⁴. At Welsh Women's Aid, we are co-delivering training with Rights of Women for specialist services who are supporting those experiencing sexual harassment.

While we feel women should be empowered to make a complaint should they be comfortable to do so, there must not be pressure for them to be involved in order for a case to be pursued, or the onus on them alone to report. Clear consequences for the employer, from a third party organisation, is needed to ensure sexual harassment does not continue to be chronically underreported; four out of five (79%)⁵ women who have been sexually harassed at work did not feel able to report it to their employer and 17%⁶ of women reported it was their line manager, or someone with direct authority over them who was the perpetrator. Clearly, then, the onus on reporting should not be on the woman alone.

³ <https://rightsofwomen.org.uk/get-advice/sexual-harassment-at-work-law/>

⁴ <https://gov.wales/live-fear-free> <https://www.tuc.org.uk/news/new-alliance-calls-government-make-employers-prevent-sexual-harassment-tuc>

⁵ <https://www.tuc.org.uk/sites/default/files/SexualHarassmentreport2016.pdf>

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

Welsh Women's Aid calls for compensation to be awarded based on the impact to the survivor. For example, impact on earnings, ability to access promotions, health and support costs. Putting a limit on compensation allows workplaces to minimise the financial impact on women of sexual harassment and doesn't consider the role it plays in continuing the gender pay gap.

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

We agree with the importance of increasing visibility of harassment and the importance of employers responding to complaints appropriately. Training on the impact sexual harassment can have on an individual, particularly in terms of the impact a culture of fear and intimidation can have would be helpful. Particularly if employers see harassment as low level or 'just a bit of fun'.

Policies should also reflect an employer's zero tolerance approach to sexual harassment and these policies must be cascaded across and down the organisation to ensure all staff are aware of their rights and responsibilities regarding workplace sexual harassment. As staff on casual and zero hours contracts, as well as young women, can be particularly at risk, it is important these policies clearly apply to all employees. Policies should also apply to those attending a workplace in another capacity, such as clients, visitors etc and those engaging with the organisation over the phone or online.

We also agree with the suggestion of a requirement to publish or report on prevention and resolution policies, this again sends a clear message from UK Government to employers that sexual harassment is not tolerated but also empowers victims to know it will be taken seriously.

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

Women who work in customer facing roles may be particularly at risk of third-party harassment. This is worrying as young women in particular may be in unstable, zero hours, customer facing roles where they do not feel able to report or seek support because of a fear of losing their job⁷.

Where the harassment is perpetrated by a client or customer, the person experiencing the harassment may feel it is impossible to take action; in findings from an online survey from the TUC, one respondent pointed out that 'she felt unable to challenge the perpetrator because he was a client and instead tried to modify her own appearance in order to avoid the harassment'.⁸

⁷ <https://www.tuc.org.uk/sites/default/files/SexualHarassmentreport2016.pdf> page 9

⁸ *ibid*



This clearly speaks to a power imbalance between the employee and customer/client. The employer clearly wants to keep a client/customer happy, but the employee might feel that is at the cost of their safety and wellbeing. Employers then should be expected to take steps to protect staff from potential harassment from third parties, whether that is a sign which is clear abuse will not be tolerated or contracts with potential clients.

7. Do you agree that the defence of having taken 'all reasonable steps' to prevent harassment should apply to cases of third-party harassment?

Welsh Women's Aid is clear that there should be guidance on what 'all reasonable steps' is to ensure employers do all they can to protect staff from harassment. Reiterating the points above about considering power imbalances between employees and customers/clients and how that could be abused. It must be very clear that the defence of 'taking all reasonable steps' is not used as a way of not taking sufficient action. Employers should have to evidence what steps were taken and that the support was adequate. The victim should be consulted on whether those steps were indeed sufficient.

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

Welsh Women's Aid agrees that protection should extend to volunteers across all characteristics in the Equality Act. As the consultation itself acknowledges, volunteers might be at greater risk of sexual harassment because of power dynamics and the current lack of protection within the Equality Act, this discrimination could of course extend across the other protections as defined in the Act. Figures show the number of people volunteering has increased and the age group with the highest number of volunteers is young people⁹, this intersects with the points made earlier in this response about young women being at risk of sexual harassment because of the precarious nature of their work. There is clearly, therefore, a case for ensuring volunteers are afforded the same protection as employed people.

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

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

No, we feel it would in-fact support volunteer retention as well as increase the diversity of volunteers willing to engage with certain organisations, which they perhaps have not in the past.

⁹<https://www.ons.gov.uk/economy/nationalaccounts/satelliteaccounts/articles/changesinthevalueanddivisionofunpaidcareworkintheuk/2015>



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

Yes, in order to ensure further power dynamics are not created.

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

No, we know that experiences of sexual harassment or indeed experiences of other discrimination as defined under the Equality Act can be traumatic, this compounded with concerns about losing a job make it very difficult to report. Three months is a very short time in which to process an experience (or a culmination of experiences) and come forward, so we are pleased to see in the consultation itself an acknowledgement that it can take time to come to terms with sexual harassment and be able to report. As we know with experiences of other forms of violence against women, survivors can take years to feel ready to report, therefore those experiencing in a work capacity, must be granted the same time and space to process it.

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

We are concerned that a fair time limit is more important than establishing different time limits for different claims. Recognising, as stated, the time it takes to feel ready to report, if at all.

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

We feel it should be extended to more than 6 months, this reflects the points already made in this response that there cannot be a time frame on how long someone impacted by sexual harassment or other forms of discrimination in the workplace takes to process the experience and come forward with a complaint. As we've seen in the #MeToo movement, some women have taken years to come forward, but this in turn has empowered other women to speak out as well. In the context of the work environment, it may only be after someone has left that they feel able to confront the experience and hold the employer to account, they must be given the space to do this. By forcing a time-limit on survivors, the state could effectively be silencing them.

Any comments or questions regarding our response can be directed to:

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