Written submission from Rape Crisis England and Wales (SHW0045)

Executive Summary

- Sexual harassment in the workplace is part of a continuum of sexual and other violence against women and girls, almost entirely perpetrated by men and boys.
- Condoning harassment creates a conducive context for other forms of sexual violence.
- Violence against woman and girls is a cause and consequence of sex inequality.
- Sexual harassment has a broad set of impacts:
  - as a degrading, humiliating, and harmful experience in itself,
  - as part of the creation of a conducive context for the objectification and humiliation of women and girls and for the condoning and excusing of all forms of sexual violence, and
  - as part of the framing of sex-based inequality, reducing women’s rights to be present, to progress and to thrive within the workplace.

We recommend:

- Ring fenced funding for specialist sexual violence support services
- Employers to provide anti-harassment training to all employees and to actively promote an environment where sexual harassment can be reported.
- Improved specialist training to union representative, HR professionals and any other professionals who may reasonably expect to receive a disclosure of sexual harassment in the workplace, to be delivered by specialist organisations such as Rape Crisis
- The creation and implementation of clear and robust policies and protocols which are informed by victims’ experiences
- Further exploration into the use and impacts of Non-Disclosure Agreements following disclosures of sexual harassment in the workplace, given their objective is to silence victims and make this problem invisible
- Increased oversight of companies and organisations who contract with external investigators and adjudicators in instances of sexual harassment claims
- The re-introduction of a duty on employers to act where an employee is being harassed by a third party

Rape Crisis England and Wales

1. Rape Crisis England and Wales (RCEW) is an umbrella organisation representing 45 centres across England and Wales whose primary purpose is to provide specialist support services for women and girls who have experienced any form of sexual violence.

2. Rape Crisis services are engaged in both the prevention of sexual violence and the provision of support to victims. They deliver holistic victim/survivor led services which meet the varying and multiple needs of service users. Rape Crisis services deliver training to professionals in responding to disclosures and provide input into policy in organisation and institutions. They also deliver work with young people and adults around consent and sexual violence. This work challenges the social norms about what is appropriate behaviour between the sexes including attitudes and treatment of women and girls.
3. Rape Crisis are able to deliver and facilitate their work effectively because they have
developed extensive expertise in specialist support provision and prevention over 40 years.
This submission is informed by our experience of delivering these frontline services.

Definitions

4. In this submission we use the Equality Act 2010 definition of sexual harassment as
"unwanted conduct of a sexual nature which has the purpose or effect of creating an
intimidating, hostile, degrading, humiliating or offensive environment". Examples of sexual
harassment can include but are not limited to unwelcome and inappropriate touching,
suggestive remarks, jokes about a person’s sex life, the circulation of pornography.

5. We consider sexual harassment to be part of a continuum of sexual and other violence
against women and girls, almost entirely perpetrated by men. Professor Liz Kelly,
discussing the use of the concept of a ‘continuum’ of violence by a number of researchers,
notes that it refers to the

*basic common character underlying the many different forms of violence: the
abuse, intimidation, coercion, intrusion, threat and force men use to control
women.*

As sexual violence exists on a continuum it means that there are multiple forms which may
overlap in their definition. For example, sexual touching as well as being a form of sexual
harassment may also constitute a criminal offence of sexual assault.

6. We consider that violence against woman and girls is a cause and consequence of sex
inequality. We note that the United Nations Declaration on the Elimination of Violence
against Women, Preamble paragraph 6, links violence directly to women’s inequality:

> violence against women is a manifestation of historically unequal power relations
between men and women, which have led to domination over and discrimination
against women by men and to the prevention of the full advancement of women,
and ... violence against women is one of the crucial social mechanisms by which
women are forced into a subordinate position compared with men.

7. We agree with the United Nations analysis of violence against women and girls and the
role of government:

> as an outcome of gender discrimination that shapes social, economic, cultural and
political structures, rather than being independent of them. As a consequence, the
State is obligated not merely to protect against violence, but rather to eliminate its
“causes”—that is, gender discrimination at structural, ideological and operational
levels—as well as to bear the responsibility for addressing its consequences.

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

---

1 Surviving Sexual Violence, Kelly, 1998
context within which harassment can continue and burgeon, and within which other forms of sexual violence can occur.

The perpetrators and the victims

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

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

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

12. In the TUC/ Everyday Sexism report ‘Still just a bit of banter?’ it was found that in the vast majority of cases, the perpetrator was a male colleague, with nearly one in five reporting that their direct manager or someone else with direct authority over them was the

---

3 https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/sexualoffencesinenglandandwales/yearendingmarch2017
4 EU Agency for Fundamental Rights (2014) Violence Against Women: An EU wide survey
7 https://www.troubleandstrife.org/2016/05/situating-agency/
perpetrator. We know that sexual harassment and sexual violence is at its heart about power and control and that patriarchal norms create a sense of entitlement over women and girls’ behavior and bodies. This can be even further manifested within employment where there are clear power dynamics in organizational hierarchies.

13. Sexual harassment does not have to be directed at the person complaining about it. For example, the display of pornography, particularly if the image is degrading to women, is not aimed specifically towards a particular person but instead creates a degrading, intimidating or hostile work environment.

Prevalence

14. Information taken from the TUC and Everyday Sexism report ‘Still just a bit of banter? Sexual harassment in the workplace in 2016’\(^8\) found that:
- more than half (52%) of all women polled had experienced some form of sexual harassment.
- 35% of women have heard comments of a sexual nature being made about other women in the workplace.
- 32% of women have been subject to unwelcome jokes of a sexual nature.
- 28% of women have been subject to comments of a sexual nature about their body or clothes.
- Nearly one quarter of women have experienced unwanted touching (such as a hand on the knee or lower back).
- One fifth of women have experienced unwanted sexual advances.
- More than one in ten women reported experiencing unwanted sexual touching or attempts to kiss them.

15. Underreporting is an intractable problem in sexual violence, but harassment is considered the most frequent and common form of sexual violence that women and girls experience. The TUC/YouGov polling also indicates that sexual harassment is massively underreported. Four in five women did not report the sexual harassment to their employer.\(^9\) Some thought reporting it would impact negatively on their relationships at work (28%) or on their career prospects (15%), while others were too embarrassed to talk about it (20%) or felt they would not be believed or taken seriously (24%).

16. Sexual harassment in the workplace does not have to be solely located within the physical workplace but stretches to social events, external events such as conferences, and also takes place online.

17. For many women, sexual harassment is not a one-off incident, but something that happens to them many times during their working lives. More than one third of women who had experienced sexual harassment in the TUC/Everyday sexism survey reported that they had received unwanted sexual advances more than six times in their lives. For women aged over sixty, the figure increased to nearly forty percent.

---


Impacts

18. The Committee on the UN Convention of the Elimination of all forms of Discrimination Against Women (CEDAW) has recently issued its General Recommendation 35 on Violence against Women which notes inter alia the impact of violence on women's human rights:

*Women’s right to a life free from gender-based violence is indivisible from and interdependent with other human rights, including the right to life, health, liberty and security of the person, the right to equality and equal protection within the family, freedom from torture, cruel, inhumane or degrading treatment, freedom of expression, movement, participation, assembly and association.*

All these rights are jeopardised to varying degrees by sexual harassment.

19. Sexual harassment therefore has a broad set of impacts:
   - as a degrading, humiliating, and harmful experience in itself,
   - as part of the creation of a conducive context for the objectification and humiliation of women and girls and for the condoning and excusing of all forms of sexual violence, and
   - as part of the framing of sex-based inequality, reducing women's rights to speak in, be present in, progress in and thrive within the workplace.

The repetition and frequency of sexual harassment is rendered invisible by low reporting and poor data collection. However, because it is a repeated daily experience for women and girls it creates a powerful context that limits their freedom of movement, speech, and autonomy.

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

Recommendations for action

21. We do not at this stage recommend that a more specific criminal offence of sexual harassment be created. We see the issue as deeply rooted in public attitudes and systemic inequality. We know that the specialist teams and units within the police and CPS are severely under resourced, which results in significant delays within the criminal justice system. We know that conviction rates relating to sexual offences remain disproportionately low. Given the ties to public attitudes, particularly the construction of gender stereotypes, we believe that resources would be better directed towards preventative action, education and awareness raising in the form of, for example, public campaigns. We recommend that
the Government’s Violence against Women and Girls Strategy should specifically address this issue.

22. Online activism helps fill the gap in the evidence base as well as recording and sharing experiences of harassment. This has been most powerfully seen recently in the #metoo movement, but this use of online spaces to raise awareness about sexual harassment, is not new. Online forums such as Everyday Sexism\(^\text{10}\) provide public space to which people can bring their experiences. These good practices around raising awareness should be supported.

23. Perpetrators of sexual harassment in the workplace are often third parties. Women working in retail, hospitality, healthcare, care, transport and many other sectors deal with clients, patients, and customers on a daily basis and currently have little protection from their employer when facing harassment. Reintroducing a duty on employers to act where an employee is being harassed by a third party would be an important step in tackling workplace sexual harassment. This previously existed under Section 40 of the Equality Act 2010 which was repealed in 2013.

24. We cannot examine sexual harassment within the workplace without considering the context of the gender wage gap and the fact that there is a dearth of women in leadership roles and the positions which command the highest salaries, power and influence. This is a result of a society which discriminates against women and girls. We recommend that further efforts are made by government, schools and organisations to increase representation of women in the workplace, particularly in those industries which are typically male dominated.

25. Given the prevalence within the workplace we recommend that all employers, working with trade unions, provide anti-harassment training to all employees and actively promote an environment where reporting sexual harassment is encouraged. This environment should result in a higher number of disclosures made to employers so we also recommend specialist training to union representatives, HR professionals and any other professionals who may reasonably expect to receive a disclosure of sexual harassment in the workplace delivered by specialist organisations such as Rape Crisis.

26. To properly respond to disclosures organisations need to create and implement clear and robust policies and protocols which are informed by victim's experiences. We recommend increased exploration and oversight of companies who contract external investigators and adjudicators in instances of sexual harassment claims as we are concerned about the lack of monitoring of these, and of the emergence of bad practice among non-specialist individuals carrying out investigations and disciplinary procedures around sexual harassment and violence within the workplace. We recommend that there is increased oversight of this – for example, through a charter to which employers can sign up to demonstrate they have effective training, policies and procedures in place.

27. We are concerned by the increasing use of Non-Disclosure Agreements following disclosures of sexual harassment in the workplace. These have the effect of silencing the

\(^{10}\)https://everydaysexism.com/about
victim. They also often result in affording greater protection to perpetrators, particularly in their future employment. We recommend further exploration of their use and impacts.

Conclusion

28. We know that sexual violence and sexual harassment is hugely prevalent in public spaces (see previous submission to the Women and Equalities Select Committee). We also know that sexual violence is most likely to be perpetrated by someone who is known and trusted by the victim. Multiple research reports and far reaching social movements such as #metoo have also highlighted the prevalence of sexual harassment within the workplace. We see therefore that this is an issue that pervades every arena and impacts on huge numbers of victim/survivors. We know from service users that survivors of sexual harassment and sexual violence prefer access to single sex specialist sexual violence support services. Existing specialist sexual violence organisations such as Rape Crisis Centres work with experiences of sexual violence across the continuum. As such there could be support available for women and girls who experience sexual harassment in the workplace if capacity allowed.

29. However, Rape Crisis services are increasingly operating at capacity and are chronically underfunded. Government should ensure secure and sustainable funding for all Rape Crisis Centres, including funding to not only continue but to develop their services in response to need, such as the development of specialist prevention work. These centres need to grow to meet the current demand and to ensure that all survivors of all forms of sexual violence have access to the high quality specialist support they deserve. This would also give centres the additional capacity to directly inform policies, protocols and campaigns as well as provide training to professionals.

March 2018