1. EEF, the manufacturers’ organisation, is the voice of manufacturing in the UK, representing all aspects of the manufacturing sector. Representing some 20,000 members employing almost one million workers, EEF members operate in the UK, Europe and throughout the world in a dynamic and highly competitive environment.

2. EEF is a specialist supplier of employment law and HR services to tens of thousands of UK based employers. It has rich data on the issues which employers commonly face and encounters on a daily basis the problems of advising employers on the issues raised in this inquiry. We work closely with employers to support them on ensuring they have the right policies and processes in place on an array of topics including sexual harassment.

3. As a male dominated industry, manufacturers take the topic of sexual harassment in the workplace extremely seriously. Manufacturers already have policies in place to ensure they effectively deal with any matters arising from sexual harassment. These policies are often tied into wider policies around dignity at work. The recent media attention around sexual harassment and social media campaigns has ensured that employers look again at their policies and for many they have reissued policies in light of the recent headlines to ensure that employees across the workplace are aware of their policies, and indeed the processes and actions that would take place should a claim of sexual harassment arise.

4. Many companies we spoke to ahead of this submission told us that they were continuing to promote their dignity at work policies as part of a wider encouragement around diversity and inclusion. Many companies for example are currently reporting on their gender pay gaps which requires significant internal communications to employees in both the figures that are being reporting and the actions that companies are taking to close that gap. Dignity at work policies (including sexual harassments) are also becoming part of this conversation. Again, companies we spoke to felt this was especially important in their heavily male-dominated industry.

5. There is work to do still on education. But education should come before enforcement. This is education to ensure that employees feel both comfortable and confident in raising a sexual harassment issue. This requires buy in from the Board level and in many cases training from Board level to line managers to ensure that employees feel supported in raises any issues around sexual harassment in the workplace.

6. EEF as a HR and legal provider and trainer will soon run a further series of seminars on dignity at work which will include sexual harassment, we have also included this topic in our recent HR and Legal updates that we provide to EEF members to offer any additional support in developing their existing policies further. This advice and guidance we see as complementary to the guidance provided by ACAS and the EHRC, both of which employers are familiar with.

7. Manufacturers are well aware that allowing incidents of sexual harassment to go unaddressed, or failing to tackle a workplace culture in which the seriousness of bullying and harassment, including sexual harassment, is not appreciated poses significant risks,
including to the business’ bottom line. As well as signalling management failings, it can also lead to higher employee turnover and low workforce morale and poor employee engagement. These are additional drivers for employers to ensure they get this right and we are working closely with them to ensure they do so.

**Sections 40 and Section 138 of the Equality Act 2010**

8. At the time of its consultation, EEF supported the proposal to repeal sections 40 (2)-(4) of the Equality Act 2010 as part of the Government’s wider ambition to reduce the regulatory burden on employers. We came to this position as in our experience as a supplier of legal services to EEF members and in discussions with them, the provisions as then were never used as the foundation of a claim. This view was supported within the consultation itself that the provision was initially introduced without any real or perceived need.

9. As mentioned above, employers already provide companywide schemes and policies to identify and prevent the harassment of their employees, whether this is by third parties or other employees. In addition to policies, many companies have confidential helplines, whistleblowing procedures, counselling, formal and informal grievance processes to name a few. These channels are all used by manufacturers to provide avenues for redress for employees who may have experienced harassment at work.

10. Given the low number of claims through third party harassment there is little evidence to support its reintroduction. We would see this having limited impact however, as many employers, and indeed their employees, see the above mentioned channels as more effective in dealing with real or perceived harassment at work. Moreover, outside the provisions of the Equality Act, there are several comprehensive legal provisions which provide individuals with effective access to legal redress. This includes the Protection from Harassment Act 1997 which was intended to be a response to stalking, but its ambit is considerably wider than this. It provides for both civil redress and criminal liability, with harassment potentially being made out with the occurrence of two events. Courts then have wide powers to impose restraining orders preventing future harassment and the statute covers a wide range of behaviour.

11. Finally, we would add on this topic that employers owe to all their employees a common law duty to take reasonable care of the safety of their staff and statutory duties under the Health and Safety at Work Act, which extends beyond employees. There are therefore wider legal protection for employees also.

12. In addition to repealing Section 40 (2) to (4) during the same period the then Government repealed Section 138 of the Equality Act on procedures for obtaining information. We did not see the repeal of Section 138 as preventing employees’, employers, customers or service providers from voluntarily corresponding to resolve a dispute about discrimination and therefore did not see it as having an adverse effect on potential claimants.

13. In EEF’s experience as a legal provider we had found questionnaires tended to fall into two categories. Those which added limited benefit and repeated much of the content
within a claim form and those which asked very detail questions and repeated information. While the former added every little to proceedings to the benefit of either party, the latter in some cases, a claimant may in any event request further and better particulars directly from a Respondent and in default seek an order from the Employment Tribunal. We did then, and do not now, see it as undermining the ability of a claimant to access relevant material from a Respondent. Moreover, a Respondent who ignores a request or who gives an equivocal response could find that employment tribunal would later take account of this. Employers are therefore likely to reply constructively to reasonable requests for information outside of the statutory provision or an order of a Tribunal.

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