The Federation of Small Businesses (FSB) welcomes the opportunity to respond to the Committee’s inquiry on sexual harassment in the workplace.

FSB is the UK’s leading business organisation. It exists to protect and promote the interests of the self-employed and all those who run their own business. FSB is non-party political, and is the largest organisation representing small and medium sized businesses in the UK. Small businesses make up 99.3 per cent of all businesses in the UK, and make a huge contribution to the UK economy.

Sexual harassment, in any form, is illegal but remains a problem that too many people still experience. As the recent spotlight has shown, no part of society has been immune to this and this extends into the workplace. FSB members understand the importance of creating safe and inclusive workplaces in which challenging unacceptable behaviour is the norm, ensuring all allegations of sexual harassment are appropriately investigated.

Understanding employment law can be particularly challenging for small businesses who do not have a HR or legal department. FSB plays an important role in supporting smaller employers to comply with their employment law obligations. We provide a 24/7 legal advice helpline, staffed by trained solicitors. Employment law queries make up a disproportionately large proportion of the calls into the helpline. In 2017-18, the helpline received over 25,000 calls, of which 60 per cent of the inquiries were related to employment law. Our members also have access to information on a number of employment policies, including policies on sexual harassment and bullying in the workplace. This advice and guidance we see as complementary to the guidance provided by Acas and the EHRC. These both provide an important function in ensuring both employers and employees are aware of their rights and obligations.

FSB plays an important role in sharing information with our members and the wider small business community, a group that Government often finds difficult to communicate with. We also support smaller employers to comply with their employment law obligations. For example changes to employment law are shared through our social media channels, through a regular legal bulletin from our legal services provider, and in our quarterly magazine.

Small business owners are aware that they have a responsibility to provide a safe working environment for themselves and their staff. Failing to tackle incidents of sexual harassment or wider instances of bullying and harassment will have serious impact on their business. Incidents that are not addressed can lead to low morale amongst staff, lower productivity and a higher turnover of employees.

Research has shown that cases of sexual harassment continue to be underreported. When this comes to the workplace, there is a clear need for Government to ensure that both businesses and employees understand the issue. This is to ensure that employees feel both comfortable and confident in raising an incidence of sexual harassment Government should look at raising awareness both amongst employers and employees of the different types of
sexual harassment, together with guidance on developing workplace policies. This should give victims the confidence to raise incidents and to help inform employers as they are establishing policies and procedures to address the issue.

Small businesses understand the importance of ensuring that employees work in a safe environment and that they are not subject to harassment by customers or those in engaging with their business and operating in their supply chains. FSB did not take a position when section 40 of the Equality Act was repealed, given the low number of claims through third party harassment, and the other provisions of the Equality Act that provide individuals with effective redress. We believe Government should explore the extent and nature of sexual harassment claims before moving to legislate.

While the most serious claims of sexual harassment will, of course, require criminal proceedings, incidents of sexual harassment can also be addressed through the existing legal framework enforced within the workforce.

FSB members are committed to ensuring their staff have access to justice, but there is concern amongst small businesses that the complete removal of Employment Tribunal Fees could lead to an increase in the number of possible vexatious litigants, individuals who persistently take legal action against others without any merit. FSB continues to believe that tribunal fees should be small and proportionate, and that they were previously set to high.

Time limits within which an employee must submit a sexual harassment claim to tribunal are a sensible step to protect the interests of both employees and businesses, but this should not prevent amicable resolution. Flexibility to pause this time limit, while both parties complete a workplace grievance process or other alternative dispute resolution procedures, should be allowed.

We trust that you will find our comments helpful and that they will be taken into consideration.

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