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EEF response to the consultation from the Government Equalities Office, (GEO) on the proposed repeal of the Third Party harassment provisions of the Equality Act.

1. EEF supports the proposed repeal of sections 40(2)-(4) of the Equality Act 2010, However, we do not regard the measure as a significant step in reducing the regulatory burden on employers.
2. In our experience as a supplier of legal services to EEF members and in discussions with them, the current provisions have never been used as the foundation of a claim. This supports the view expressed in the consultation paper and the belief by GEO that the provision was introduced without any real or perceived need. EEF therefore supports the repeal of the provision as it serves no identified useful purpose.
3. EEF members often, outside of any legal obligations, provide companywide schemes to identify and prevent the harassment of their workers, whether this is by third parties or fellow employees. Confidential helplines, whistleblowing procedures, counselling, formal and informal grievance processes are all used by EEF members to provide avenues for redress for employees who may experience harassment at work. EEF believes that such arrangements are far more effective in dealing with real or perceived harassment at work. It may be a consequence of the existence of such responsible employer behaviour that the statutory provision has not been used.
4. Outside the provisions of the Equality Act, there are several comprehensive legal provisions which either provide individuals with access to legal redress or impose onerous duties upon employers. The Protection from Harassment Act 1997 was intended to be a response to the phenomena of 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 have wide powers to impose restraining orders preventing future harassment and the statute covers a wide range of behaviour.
5. Employers owe to all their employees a common-law duty of care to take reasonable care of the safety of their staff and statutory duties under the Health and Safety at Work Act, which extend beyond employees. There will therefore be wide ranging legal protection for employees after the repeal of the provisions contained within the Equality Act.