

PROPOSED AMENDMENTS TO THE EQUALITY ACT 2010

THIRD PARTY HARRASSMENT

RESPONSE TO CONSULTATION

The government is proposing to repeal the provision requiring employers to take reasonable steps to protect employees from harassment by third parties.

We believe that this provision is of practical benefit in making the duties of employers in respect of third party harassment clear to all parties. Given that the provision is quite new, and that many cases never reach the hearing stage, it is not surprising that it has only been used on one occasion, as detailed below.

Blake v Pashun Care Homes Ltd [2011] EqLR 1293. The claimant who was employed as a care worker in the respondent's care home claimed that she was sexually harassed by a client at the home, and that the respondent took no action either to prevent or to minimise the harassment. The employment tribunal found that the respondent was aware of two incidents of third-party sexual harassment and took the view that the respondent should have taken steps either to prevent or to minimise the harassment. The tribunal gave some examples of reasonable steps that could have been taken in those circumstances to stop or minimise the harassment from occurring. The tribunal concluded that the third party sexual harassment complaint was well-founded.

The fact that this provision has already been used successfully in the fairly short time since its introduction shows its practical usefulness. We accept that employers' duty in respect of third party harassment can be demonstrated from other pieces of legislation. However, removing the clear statement of it in one place would make future cases more difficult and protracted. One clear statement is, in effect, a reduction of red tape. More importantly, it is simpler for employers and others to understand and obey when the principle is stated clearly as it is now. We believe, therefore, that this provision of the Equality Act should remain as it currently is.

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Submitted on behalf of Croydon Area Gay Society, a social and campaigning group in the London Borough of Croydon for over forty years, with an average membership over the past five years of approximately one hundred.