

# Final stage impact assessment

Title: Requiring employers to not permit the harassment of their employees by third parties

Type of measure: Primary

Department or agency: Cabinet Office

Contact for enquiries: Richard Laux, Head of Equality Data and Analysis Division

Date: 21/10/2024

## 1. Summary of proposal

- 1.1. The Equality Act 2010 holds employers vicariously liable for harassment carried out by their employees; however, it is less clear-cut whether it holds them liable for harassment of their employees by third-parties, for example by customers or clients. In May 2018 the Court of Appeal ruled that the Equality Act 2010 could not be considered to provide protection in cases of third-party harassment.
- 1.2. The Employment Rights Bill aims to strengthen protections against harassment by introducing three amendments to the Equality Act 2010's harassment provisions.
- 1.3. This measure will introduce an obligation on employers to not permit the harassment of their employees by third-parties under the Equality Act 2010. Employers will be required to create and maintain workplaces and working conditions free from harassment, including by third-parties. This measure will cover all three forms of harassment in section 26 of the 2010 Equality Act 2010: verbal, visual, and physical harassment. In addition to sexual harassment, it will cover all protected characteristics covered by the existing harassment provision: age, disability, gender reassignment, race, religion or belief, sex, and sexual orientation. It will

therefore strengthen protections for employees with these protected characteristics in the workplace, rather than protections against sexual harassment alone.

- 1.4. Extending protections to cover third-party harassment will significantly impact individuals in client and customer-facing roles. They will be protected from harassment from those outside the organisation, and their employer should take all reasonable steps to prevent this. This measure will impact some institutions more than others, particularly those working in more volatile situations, such as health and social care, and the entertainment industry. In order to balance this impact, what constitutes 'all reasonable steps' will depend on the employer's specific circumstances, such as their size, sector, and other relevant facts.
- 1.5. The objective of this measure is a reduction in the proportion of employees in British companies who are victims of workplace harassment by third-parties, for example, customers, clients, or contractors.

## 2. Strategic case for proposed regulation

2.1. Sexual harassment has been shown to be a systemic issue in the workplace:

- for the year ending March 2023, Office for National Statistics (ONS) data showed that 26.5% of people aged 16 years and over who said they had experienced sexual harassment in person in the last 12 months said that they had experienced it at their place of work;<sup>1</sup>
- according to the Government Equalities Office's 2020 Sexual Harassment Survey, 29% of those in employment had experienced some form of sexual harassment in the workplace or work-related environment in the last 12 months (2019 to 2020). This was the case for 30% of women and 27% of men;<sup>2</sup>
- a 2023 Trades Union Congress (TUC) poll of 1,000 women found 58% of women have been sexually harassed at work.<sup>3</sup>

2.2. The economic costs of workplace sexual harassment are shared by individuals, their employers, Government, and society. The Deloitte Access Economics (2019) found that

---

<sup>1</sup> ONS, [Experiences of harassment in England and Wales](#): December 2023 (viewed August 2024)

<sup>2</sup> Equality Hub (formerly Government Equalities Office), [2020 Sexual Harassment Survey](#) (2020)

<sup>3</sup> [TUC poll](#), 2023

“Approximately two-thirds of lost productivity (70%) is borne by employers, with Government (23%) losing tax revenue, and individuals (7%) losing income”.<sup>4</sup>

- 2.3. The burden of holding perpetrators and employers to account and of driving change is too great to be shouldered by victims alone. Addressing cultural and behavioural issues in the workplace is key to preventing sexual harassment and protecting potential victims. Harassment in the workplace has widespread impacts on all sectors of society and positive changes could have benefits for marginalised groups across all protected characteristics.
- 2.4. Harassment by third-parties whether related to sex or any other protected characteristic is not prohibited under the Equality Act 2010. On 26 October 2024, the Worker Protection (Amendment to the Equality Act 2010) Act 2023 comes into force. This will place a positive and proactive legal duty on employers to take reasonable steps to prevent sexual harassment of their employees. The Equality and Human Rights Commission will be able to take enforcement action if an employer fails to comply with the duty. However, employees cannot currently bring a claim for third-party sexual harassment. This measure will enable employees to bring a claim against their employer for third-party harassment. Third-party harassment will cover all three forms of harassment in the Equality Act 2010 including those related to protected characteristics and sexual harassment.
- 2.5. Introducing an obligation on employers not to permit third-parties to harass their employees has the potential to have a positive impact on women, with the 2020 Government Equalities Office Sexual Harassment Survey finding that women were more likely to have been harassed by someone outside their organisation (20% compared to 8% of men).<sup>5</sup> Taking steps to tackle this therefore could be a significant step towards eliminating harassment, advancing equality of opportunity, and fostering good relations with regard to sex.
- 2.6. There is some evidence that people of certain ethnicities are more likely to be in customer-facing roles than others, with 3.7% of Indian, 4.1% of black/African/Caribbean and black British, 4.4% of white, 5.2% of mixed/multiple ethnic groups and 6.1% of Pakistani workers being employed in the Accommodation and Food industry in England as of April 2023 to March 2024. This is compared with 9.2% of any other Asian background, 12.9% of Bangladeshi, and 14.0% of Chinese workers. The proposed protections could be beneficial

---

<sup>4</sup> Deloitte, [The economic benefits of improving social inclusion A report commissioned by SBS](#), August 2019

<sup>5</sup> Equality Hub (formerly Government Equalities Office), [2020 Sexual Harassment Survey](#) (2020)

for these groups therefore where a higher proportion of workers are in customer-facing roles.<sup>6</sup>

- 2.7. This measure will clarify liability for employers. Protections against third-party harassment in the workplace were originally introduced in 2008 by an amendment to the Sex Discrimination Act 1975 and were later carried through into section 40 of the Equality Act 2010. In 2013 however, these provisions were repealed by the Enterprise and Regulatory Reform Act 2013. The provisions had resulted in only two Employment Tribunal rulings since their introduction in 2008 and criticism was made of their design, which required two occasions of known harassment to have occurred before liability was triggered, known as the ‘three strikes’ rule.
- 2.8. The position that followed was that the Equality Act 2010 continued to provide protection in cases of third-party harassment, under section 26, with no requirement for the ‘three strikes’ rule. In May 2018 however, the Court of Appeal ruled, in the case of *Unite the Union v Nailard* [2018] EWCA Civ 1203, that the 2013 repeal of parts of section 40 meant that the Equality Act 2010 could no longer be considered to provide any protection in cases of third-party harassment.
- 2.9. This measure will clarify for employers that they are liable if they fail to take all reasonable steps to protect their employees from third-party harassment and that this covers all three forms of harassment in section 26 of the 2010 Act: verbal, visual, and physical harassment. It will also clarify that this covers all protected characteristics covered by the existing harassment provision: age, disability, gender reassignment, race, religion or belief, sex, and sexual orientation. It will therefore strengthen protections for employees with these protected characteristics in the workplace, rather than protections against sexual harassment alone.
- 2.10. Feeling safe at work improves employee well-being, resulting in reduced stress and anxiety, and therefore reduced illness, burnout, and staff turnover. Staff are likely to be more motivated and creative, resulting in increased innovation and productivity.<sup>7</sup>
- 2.11. Organisations that are seen to deal strongly with workplace harassment are likely to get a boost to their reputation, which will help to attract customers, clients, and talent.

---

<sup>6</sup> Data is calculated using the latest estimates from the ONS’s Annual Population Survey as reported by [Durham University’s Nomis service](#). Percentages are calculated using the number of workers from each ethnic group working in the Accommodation and Food Services Activities industry as a proportion of all workers by ethnic group in all industries. The data is reflective of the period April 2023 to March 2024.

<sup>7</sup> Krekel and others, [Employee Wellbeing, Productivity, and Firm Performance](#), Saïd Business School (2019)

- 2.12. A wider benefit of these measures to the United Kingdom (UK) economy is the broader economic impact of increased female participation in the workplace. For example, McKinsey Global Institute, *The Economic Benefits of Gender Parity* (2016) stated that if women were to participate in the economy identically to men they could add as much as 26% to annual global GDP by 2025 (from 2016).<sup>8</sup>
- 2.13. This supports Goal 5 of the United Nations Sustainable Development Goal to “achieve gender equality and empower all women and girls”.<sup>9</sup> The UN states that gender equality is “...not only a fundamental human right but a necessary foundation for a peaceful, prosperous and sustainable world”. The goal goes on to discuss economic impacts (through unequal participation in the labour market), impacts on sexual violence, exploitation of women, and discrimination in areas like public office.

### 3. SMART objectives for intervention

- 3.1. This measure is part of the Government’s missions to kick start economic growth, break down the barriers to opportunity and to halve the violence experienced by women and girls in 10 years. As the manifesto states, “women’s equality will be at the heart of our missions. Our plan to Make Work Pay will transform the lives of working women, including by strengthening rights to equal pay and protections from maternity and menopause discrimination and sexual harassment”.<sup>10</sup>
- 3.2. The objective is being met through the Employment Rights Bill which was part of the King’s Speech: “My Government is committed to making work pay and will legislate to introduce a Plan to Make Work Pay for working people to ban exploitative practices and enhance employment rights [Employment Rights Bill]”.<sup>11</sup>
- 3.3. The impact of the measure will be assessed by a post implementation review. For further details on methods please see section 8 of this document.

---

<sup>8</sup> McKinsey Global Institute, [The Economic Benefits of Gender Parity](#) (2016)

<sup>9</sup> UN, [Goal 5: Achieve gender equality and empower all women and girls](#) (viewed August 2024)

<sup>10</sup> [Change: Labour Party Manifesto](#) (viewed August 2024)

<sup>11</sup> [The King’s Speech 2024](#) (viewed August 2024)

## **4. Description of proposed intervention options and explanation of the logical change process whereby this achieves SMART objectives**

- 4.1. The proposed intervention for the measure is to introduce an obligation on employers to not permit the harassment of their employees by third-parties, for example, customers or clients.
- 4.2. Specifically, the measure applies to companies that have at least 1 employee and, therefore, are already liable for incidents of workplace harassment perpetrated by their own staff and as such should already be taking action to protect their employees. Employers will be able to build on steps they are already expected to take based on existing guidance<sup>12</sup> to ensure the delivery of the measure.
- 4.3. A full logic model was developed to support this measure to ensure that the activities, outputs, short-term outcomes and long term outcomes are understood. It also provides a list of assumptions and the evidence to support the links from initial activities to long term outcomes.

---

<sup>12</sup> Equality and Human Rights Commission, [Sexual harassment and harassment at work](#) (2020)

Table 1: Theory of change for the measure

Activities	Outputs	Short term Outcomes	Long term Outcomes
<ol style="list-style-type: none"> <li>1. Legislate to introduce an obligation for employers to not permit third-parties to harass their employees</li> <li>2. Publish guidance from the Office for Equality and Opportunity on the requirements of the legislation</li> </ol>	<ol style="list-style-type: none"> <li>1. Employers take steps to comply with the duty and proactively prevent workplace harassment by third-parties</li> </ol>	<p><b>Intended outcomes:</b></p> <ol style="list-style-type: none"> <li>1. Increased awareness and understanding of companies' obligation to not permit the harassment of their employees by third-parties amongst HR professionals</li> <li>2. Change in attitudes towards and greater confidence in reporting harassment by third-parties amongst employees</li> <li>3. Changing attitudes and greater confidence lead to increase in the number of reports of harassment by third-parties made internally</li> <li>4. Cases of harassment by</li> </ol>	<p><b>Intended outcomes:</b></p> <ol style="list-style-type: none"> <li>1. Companies take action to protect themselves from liability</li> <li>2. Increased awareness and understanding of companies' obligation to not permit the harassment of their employees by third-parties, and that companies may take steps to prevent such behaviour if they attempt to harass employees</li> <li>3. A reduction in the proportion of employees in Great Britain (GB) companies who are harassed in the workplace by third-parties</li> </ol>

		third-parties brought to employment tribunals	<p>4. Employees feel safer, particularly in customer facing roles and when dealing with contractors.</p> <p>5. Increased trust in employers.</p> <p>6. Increased reputation for employers perceived to be tackling harassment</p>
--	--	---	---

<b>Assumptions</b>	<ol style="list-style-type: none"> <li>1. Companies will take meaningful steps to prevent their staff being harassed by third-parties</li> <li>2. These steps will change the attitudes of third-parties, making them realise harassing staff will not be tolerated and may result in negative outcomes for the third-party</li> <li>3. These steps will change the attitudes of employees, making them more likely to challenge inappropriate behaviour and raise complaints with their companies</li> </ol>
--------------------	---

<b>Evidence of links</b>	Activities to Outputs	<ol style="list-style-type: none"> <li>1. Similar guidance has previously been produced by the Office for Equality and Opportunity, for example Voluntary and community sector: quick start guide to harassment for service providers<sup>13</sup></li> </ol>
--------------------------	-----------------------	---

<sup>13</sup> Office for Equality and Opportunity (formerly Government Equalities Office), [Voluntary and community sector: quick start guide to harassment for service providers](#) (2011)



	Outputs to short-term outcomes	1. The Worker Protection (Amendment to the Equality Act 2010) Act 2023 introduces similar requirements for companies to limit their liability for harassment by other employees.
	Short-term outcomes to long-term outcomes	<p>1. Similar activities are required for companies to limit their liability for harassment by other employees. The GEO Sexual Harassment Survey in 2020<sup>14</sup> found that, of those with a place of work or study:</p> <ul style="list-style-type: none"> <li>○ 80% thought it had a clear, accessible policy on sexual harassment which details how to report an incident on sexual harassment</li> <li>○ 51% thought their place of work or study was tackling sexual harassment well or very well</li> </ul>
	Long-term outcomes to impacts	See row above

<sup>14</sup> Office for Equality and Opportunity (formerly Government Equalities Office), [2020 Sexual Harassment Survey](#) (2020)

## 5. Summary of long-list and alternatives

- 5.1. The Department for Business and Trade's Better Regulation Framework guidance states that: "Where legislation is required urgently ... the relevant minister may seek to agree, as part of the collective agreement process (where relevant), that there is insufficient time for the measure to be assessed under the BRF"<sup>15</sup>
- 5.2. The Employment Rights Bill, which will contain the measure, was also included within The King's Speech 2024<sup>16</sup> and the manifesto committed to introducing this legislation within 100 days of the election.<sup>17</sup>
- 5.3. It was, therefore, agreed that urgent measures applied to this measure and that the options appraisals, outlined in the Better Regulation Framework, would not be undertaken as a
- 5.4. However, we have considered alternative options to achieve these aims including a non-legislative option.

### Do Nothing

- 5.5. Doing nothing would mean that employers hold no specific obligation under the Equality Act 2010 for taking reasonable steps to prevent harassment of their employees by third-parties. This lack of protection would have a negative impact on women who are more likely to be harassed by someone outside their organisation. It would also have a negative impact on employees with customer facing roles and therefore those ethnic minority groups who are more likely to be in customer facing roles than other ethnic groups. It would signal that the incidence of harassment from third-parties in the workplace, its impact on the victims and the consequences for the economy are not considered significant enough to warrant the strengthening of protections.

### Re-introduce the three strike rule

- 5.6. Re-introducing the third-party harassment three strike rule would be discounting the validity of previous considerations and therefore would be unlikely to be supported. It would mean numerous incidents of third-party harassment would still not be in scope to be taken to an employment tribunal because there needs to be two occasions of known harassment to have

---

<sup>15</sup> Department for Business and Trade, [Better Regulation Framework](#) (2023)

<sup>16</sup> [The King's Speech 2024](#) (viewed August 2024)

<sup>17</sup> [Change: Labour Party Manifesto](#) (viewed August 2024)

occurred before employer liability is triggered. We are only aware of two cases brought on these grounds while third-party harassment provisions were in place from 2008 to 2013.<sup>18</sup> This option is therefore very unlikely to have as significant an impact on strengthening harassment protections.

## Non-legislative option

- 5.7. The Government could publish guidance or the Equality and Human Rights Commission could produce a Statutory Code of Practice for preventing sexual harassment and harassment by third-parties. While new guidance and codes can be published without making legislative changes, they would be more impactful if legislative changes are made to increase traction and interest. Following legislative changes they have the benefit of providing sufficient support to employers about upcoming changes.

## 6. Description of shortlisted policy options carried forward

- 6.1. See section 5 for a description of the application of urgent measures, as outlined in the Department for Business and Trade's Better Regulation Framework guidance<sup>19</sup> and its impact on options appraisals.
- 6.2. The Worker Protection (Amendment to the Equality Act 2010) Act 2023 will come into force on 26 October 2024 which introduces a new legal duty on employers to take "reasonable steps" to prevent sexual harassment of their employees. A measure will be introduced to amend the new duty to require employers to take 'all reasonable steps' to prevent sexual harassment of their employees. This will ensure that employers must take "all reasonable steps" to stop sexual harassment before it starts.
- 6.3. The Equality Act 2010 does not state which steps are reasonable to take to prevent sexual harassment. Therefore a measure will introduce delegated power enabling a Minister of the Crown to specify steps that are to be regarded as "reasonable" for the purposes of meeting the obligation set out in the Equality Act 2010 to take "all reasonable steps" to prevent sexual harassment. The regulations may also require an employer to have regard to specified

---

<sup>18</sup> GEO (2012) [Impact Assessment of removing the provisions in the Equality Act 2010 which makes employers liable for persistent harassment of their employees by third parties over whom the employer has no direct control](#)

<sup>19</sup> Department for Business and Trade, [Better Regulation Framework](#) (2023)

matters when taking those steps. An employer that wants to show that it has taken all reasonable steps should take the steps set out in the regulations; as well as all other preventative steps that it is reasonable for them to take in the particular circumstances.

## 7. Regulatory scorecard for preferred option

### Part A: Overall and stakeholder impacts

Table 2: Regulatory scorecard for impacts on welfare

<b>(1) Overall impacts on total welfare</b>		<b>Directional rating</b> <b>Note: Below are examples only</b>
<b>Description of overall expected impact</b>	The wider welfare benefits of reduced workplace harassment are complex and difficult to quantify, and therefore, monetise. However, feeling safe at work will improve employee wellbeing, resulting in reduced stress and anxiety, and therefore reduced illness, burnout and staff turnover. Conversely, staff are likely to be more motivated and creative, resulting in increased innovation and productivity. <sup>20</sup>	<b>Positive</b> <b>Based on all impacts (incl. non-monetised)</b>
<b>Monetised impacts</b>	See above	<b>Neutral</b> <b>Based on likely net present social value (NPSV)</b>
<b>Non-monetised impacts</b>	See above	<b>Positive</b> <b>Based on likely £NPSV</b>
<b>Any significant or adverse distributional impacts?</b>	No  This measure supports employee safety and protection from workplace harassment, which has a positive impact	<b>Neutral</b> <b>Based on all impacts (incl. non-monetised)</b>

<sup>20</sup> Krekel and others, [Employee Wellbeing, Productivity, and Firm Performance](#), Saïd Business School (2019)

	on welfare. It is not expected that any adverse distributional impacts would result.	
--	--	--

Table 3: Regulatory scorecard for expected impacts on businesses

<b>(2) Expected impacts on businesses</b>		
<b>Description of overall business impact</b>	<p>The one-off cost associated with familiarisation, for the in-scope private businesses in GB, is £22,690,886.73.</p> <p>However, the annual, repeatable costs included in this year 1 amount are significantly smaller at £123,791.58.</p> <p>The total, discounted, 10 year costs of this measure, for all private businesses with at least 1 employee in GB, is £23,756,435.</p> <p>See the 'Evidence Base' for details.</p>	<b>Neutral</b> <b>Based on all impacts (incl. non-monetised)</b>
<b>Monetised impacts</b>	<p><b>Business net present value (NPV):</b> £23,756,435 for 10 years of the measure being in operation</p> <p><b>Approx net financial cost to private business, equivalent annual net direct cost to business (EANDCB):</b> £123,791.58 (discounted after year 1) all of which are assumed to be legal advice and representation costs</p> <p><b>Please indicate if pass through to households has been deducted from these figures:</b> Not applicable</p> <p><b>Please indicate any pass through costs from households to business (if available):</b> Not applicable</p>	<b>Negative</b> <b>Based on likely business £NPSV</b>
<b>Non-monetised impacts</b>	The wider benefits of the measure to the UK economy are complex and difficult to calculate. Most calculations	<b>Positive</b>

	<p>on the economic impact of equality for businesses are significantly broader in range than this measure. For example:</p> <ul style="list-style-type: none"> <li>• McKinsey Global Institute stated that if women were to participate in the economy identically to men they could add as much as 26% to annual global GDP by 2025 (from 2016).<sup>21</sup></li> </ul> <p>The wider welfare benefits of gender equality, which this measure supports, are complex and difficult to quantify. For example:</p> <p>Goal 5 of the United Nations Sustainable Development Goals is to “achieve gender equality and empower all women and girls”.<sup>22</sup> The UN states that gender equality is “...not only a fundamental human right but a necessary foundation for a peaceful, prosperous and sustainable world”. The goal goes on to discuss economic impacts (through unequal participation in the labour market), impacts on sexual violence, exploitation of women and discrimination in areas like public office.</p> <p>This measure supports gender equality and in doing so will support the outcome above. However, its effect on these wider welfare issues are complex.</p> <p>Furthermore, organisations who are seen to deal strongly with workplace harassment are likely to get a boost to their reputation, which will help to attract customers, clients and talent.</p>	<p><b>Based on all impacts (incl. non-monetised)</b></p>
<p><b>Any significant or adverse distributional impacts?</b></p>	<p>No</p> <p>This measure introduces an obligation for businesses to not permit the harassment of their employees by third-</p>	<p><b>Neutral</b> <b>Based on likely business £NPV</b></p>

<sup>21</sup> McKinsey Global Institute, [The Economic Benefits of Gender Parity](#) (2016)

<sup>22</sup> UN, [Goal 5: Achieve gender equality and empower all women and girls](#) (viewed August 2024)

	<p>parties. The annual, repeatable cost is £123,791.58 in year 1 and, as such, considered to have a negligible effect on businesses.</p> <p>As such, while business concentrations do vary geographically and by sector, it is assumed that there will be no adverse distributional impacts.</p>	
--	--	--

Table 4: Regulatory scorecard for impacts on welfare

<b>(3) Expected impacts on households</b>		
<b>Description of overall household impact</b>	This measure introduces an obligation for businesses to not permit the harassment of their employees by third-parties. The impact on households is, therefore, expected to be positive due to improved welfare and emotional well being. However, its effect on these wider welfare issues are complex and difficult to measure or monetise.	<b>Positive</b> <b>Based on likely household £NPV</b>
<b>Monetised impacts</b>	The measure outlined in this impact assessment is specific to companies with at least 1 employee. There are no costs for households as a result.	<b>Neutral</b> <b>Based on likely household £NPV</b>
<b>Non-monetised impacts</b>	See description of overall household impact above	<b>Positive</b> <b>Based on likely household £NPV</b>
<b>Any significant or adverse distributional impacts?</b>	See description of overall household impact above	<b>Neutral</b> <b>Based on likely household £NPV</b>

**Part B: Impacts on wider Government priorities**

Table 5: Regulatory scorecard for impacts on wider Government priorities

<b>Category</b>	<b>Description of impact</b>	<b>Directional rating</b>
-----------------	------------------------------	---------------------------

<b>Business environment:</b> <b>Does the measure impact on the ease of doing business in the UK?</b>	This measure introduces an obligation for businesses to not permit the harassment of their employees by third-parties. The annual, repeatable costs, for private businesses in GB of this is £123,791.58 in year 1 and, as such, considered to have a negligible effect on business environments. Conversely, a reduction in sexual harassment will have a positive impact on the business environment which will offset the relatively small cost to businesses.	<b>Positive</b>
<b>International Considerations:</b> <b>Does the measure support international trade and investment?</b>	This measure introduces an obligation for businesses to not permit the harassment of their employees by third-parties. The annual, repeatable costs, of this for private businesses in GB is £123,791.58 in year 1 and, as such, considered to have a negligible effect on any international trade conducted by these companies.	<b>Neutral</b>
<b>Natural capital and Decarbonisation:</b> <b>Does the measure support commitments to improve the environment and decarbonise?</b>	This measure introduces an obligation for businesses to not permit the harassment of their employees by third-parties. The measure is considered to have no effect on natural capital and decarbonisation.	<b>Neutral</b>

## 8. Monitoring and evaluation of preferred option

- 8.1. The Small Business, Enterprise and Employment Act 2015<sup>23</sup> requires the inclusion of a statutory review provision in secondary legislation that regulates business or voluntary and community bodies. The inclusion of a review provision requires policy officials to undertake a 'Post-Implementation Review' in line with the legislative requirement in the Act.
- 8.2. The Department for Business and Trade's Statutory Guidance under s.31 of the Small Business, Enterprise and Employment Act<sup>24</sup> states that the timescale of the Post-

<sup>23</sup> [Small Business, Enterprise and Employment Act 2015](#) (viewed August 2024)

<sup>24</sup> Department for Business and Trade, [Statutory Guidance under s.31 of the Small Business, Enterprise and Employment Act](#) (2023)



Implementation Review should be up to five years from when the amendment is implemented. Where possible, this review would be undertaken within a similar timeframe as other post implementation reviews regarding other parts of the Employment Rights Bill.

8.3. The post implementation review will consider the theory of change (see section 4 for details) and will undertake:

- Process evaluation methods to ensure that the required activities have been completed and they are working as expected.
- Impact evaluation, using a theory based approach, to understand the outcomes of the measure.
- Value for money evaluation to understand whether the costs of the measure are in line with those expected.

8.4. The evaluation is expected to include a range of data sources including:

- A literature / rapid evidence review to understand what academic reviews of the measure and its outcomes have been undertaken.
- Engagement with companies, with at least 1 employee, to understand the costs and impact from the measure on businesses.
- An analysis of the reported data from companies, with at least 1 employee, to understand if there is progress towards the stated long term objectives of the measure.

8.5. Any future, significant, changes to patterns of employment between the implementation of this measure and the post implementation review in five years' time would impact on the success of any future post implementation review.

## **9. Minimising administrative and compliance costs for preferred option**

9.1. The costs of the measure are administrative. An obligation will be placed on employers to not permit the harassment of their staff by third-parties and employees

will therefore be able to bring cases to employment tribunal. The Equality and Human Rights Commission will also be able to take enforcement action under the Equality Act 2010, but will not be obliged to.

- 9.2. The Government will seek to minimise familiarisation costs on companies with at least 1 employee, by providing clear guidance for companies that is based on existing, understood, guidance on harassment at work.<sup>25</sup> Additionally, employers are already liable for incidents of harassment in their work place and as such should already be taking action to protect their employees.
- 9.3. The ongoing cost of this measure is successfully defending employment tribunals. In line with the 2012 Impact Assessment on removing third-party harassment provisions<sup>26</sup> we assume that the provisions could result in an increase of 0 to 0.4% in the annual number of discrimination cases accepted at Employment Tribunal, or 0 to 36 cases. We use a best estimate of 0.2% increase or 18 cases. This results in a low annual cost for the implementation of this measure. This cost is £123,791.58 across all 1,425,767 GB businesses with at least 1 employee in the first year, discounted over the 10 years that the measure is assumed to operate.

## Declaration

Department:

Cabinet Office

Contact details for enquiries:

OEO-analysis@cabinetoffice.gov.uk

Minister responsible:

---

<sup>25</sup> Equality and Human Rights Commission, [Sexual harassment and harassment at work](#) (2020)

<sup>26</sup> Equality Hub (formerly Government Equalities Office), [Review of third party harassment provisions: impact assessment](#) (2012)

Anneliese Dodds

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed: 

Date: 18/10/2024

# Summary: Analysis and evidence

Price base year: FY24/25

PV base year: FY24/25

Table 6: Summary of analysis and evidence

	<b>1. Business as usual</b>	<b>2. Do-minimum Option</b>	<b>3. Preferred way forward</b>	<b>4. More ambitious preferred way forward</b>	<b>5. Less ambitious preferred way forward</b>
<b>Net present social value</b>	Not costed, see section 5 for details	Not costed, see section 5 for details	The net present social value is based on £23,756,435 for 10 years of the measure being in operation. Costs include familiarisation and annual, repeatable, costs.	Not costed, see section 5 for details	Not costed, see section 5 for details
<b>Public sector financial costs</b>			The public sector financial costs, all of which are development, non-repeatable costs, are £5,021.		

			Costs included are to develop and sign off guidance.	
<b>Significant un-quantified benefits and costs</b>			Benefits include improved welfare for employees in GB and non-monetised impact on GDP associated with productivity, creativity and staff retention.	
<b>Key risks</b>			Risks associated with ensuring implementation within businesses and the effect of the measure on tribunal cases. See the Evidence base below for details.	
<b>Results of sensitivity analysis</b>			Sensitivity analysis indicates that the upper estimate for total costs to	

businesses in Year-1 is £34,283,913 and a lower estimate is £11,345,443.

The upper estimate for recurring annual costs to businesses after Year-1 is £247,583.16 and a lower estimate is £0.

The upper estimate for total 10 year costs to businesses is £36,167,427 and a lower estimate is £11,345,443.

See the Evidence base below for details.

# 10. Evidence base

## **Problem under consideration, with business as usual, and rationale for intervention**

10.1. For details see 'Summary of the problem' (section 1).

## **Policy objective**

10.2. For details see 'Strategic case for proposed regulation' (section 2) and specific, measurable, achievable, relevant, and time-bound (SMART) objectives for intervention (section 3).

## **Description of options considered**

10.3. For details see 'Summary of long-list and alternatives' (section 5) and 'Description of shortlisted policy options carried forward' (section 6)

## **Summary and preferred option with description of implementation plan**

10.4. The option will be given effect through primary legislation. There will not be transitional arrangements.

10.5. The option includes the following actions:

- GB companies, with at least one employee, will need to familiarise themselves with the requirements of the new measure. This is focussed on key staff reading and understanding Government guidance on the measure.
- To support companies, with at least one employee, to complete stage 1 above, the Government will provide guidance on the measure.
- Employees will be able to bring cases of third-party harassment to employment tribunal.

## Summarise the expected costs and benefits of the proposed approach

- 10.6. Costs presented in this section have been rounded to 2 decimal places for the purposes of reporting. However, figures were not rounded during calculations and as such, costs of staff time as they are presented here may not sum exactly to the total familiarisation cost for companies in the UK.

### Numbers of private businesses with at least 1 employee in GB

- 10.7. In GB in 2023 there were 1,405,780 private businesses with at least 1 employee. 1,362,075 were small and micro businesses (1 to 49 employees), and 43,705 medium and large businesses (50+ employees).<sup>27</sup> Note these figures are focused on the private sector.
- 10.8. The compound annual growth rate (CAGR) in small and micro businesses in GB between 2012 and 2023 was 1.4%. Assuming that this rate of growth continued, there would have been 1,381,197 small and micro businesses in GB in 2024.
- 10.9. The CAGR in medium and large businesses in GB between 2012 and 2023 was 2.0%. Assuming that this rate of growth continued, there would have been 44,570 medium and large businesses in GB in 2024.

### One-off familiarisation costs: Businesses

- 10.10. Context: 'Familiarisation' means reaching the point where an HR professional is aware of the legislative change and understands how it will impact their organisation. This will include understanding that employers now have an obligation to not permit the harassment of their staff by third-parties. For most this will mean consulting official advice and non-statutory guidance for employers that will be published prior to the commencement. This includes time to consider how this impacts their current HR policies.
- 10.11. It is assumed 100% of businesses will have familiarisation costs. It is also assumed that businesses will familiarise themselves with the legislative changes when the legislation and guidance is produced. It is assumed that employers will further familiarise themselves if employment tribunal cases happen; these costs are assumed to be absorbed by the ongoing

---

<sup>27</sup>Department for Business and Trade, [Business population estimates for the UK and regions](#) (2023)



training costs to employers. It is assumed to be a one-off cost. These assumptions are in line with the 2021 Impact Assessment on Workplace Harassment.<sup>28</sup>

- 10.12. It is assumed that owners (i.e. managers, directors and senior officials) of small and micro firms will need to familiarise themselves with the changes to the law as they are unlikely to have HR managers and directors to do this for the firm. This is consistent with the approach taken in previous impact assessments.
- 10.13. The time required for owners (i.e., managers, directors and senior officials) of small and micro firms to familiarise themselves with the additional requirement is assumed to be 0.5 hours (see note 1a for details).
- 10.14. The time required for Human Resource Manager and Directors of medium and large firms to familiarise themselves with the additional requirement is assumed to be 0.5 hours (see note 1a for details).
- 10.15. In the UK in 2023, the median salary for a Manager, Director and Senior Official was £23.85 per hour excluding overtime.<sup>29</sup>
- 10.16. The CAGR in median hourly pay, between 2014 and 2023 for a Manager, Director and Senior Official, excluding overtime, was 2.4%. Assuming that this rate of growth continued, their median pay in 2024 would have been £24.41. This is uplifted by 30% to cover non-labour costs to £31.74 an hour.<sup>30</sup>
- 10.17. In the UK in 2023, the median salary for a Human Resource Manager and Director was £26.31 per hour excluding overtime.<sup>31</sup>
- 10.18. The CAGR in median hourly pay, between 2014 and 2023 for a Human Resource Manager and Director, excluding overtime, was 1.2%. Assuming that this rate of growth continued, their median pay in 2024 would have been £26.62. This is uplifted by 30% to cover non-labour costs to £34.61 an hour.<sup>32</sup>

---

<sup>28</sup> Office for Equality and Opportunity (formerly Government Equalities Office), [Workplace harassment: legal protections under the Equality Act 2010](#) (2021)

<sup>29</sup> ONS, [Earnings and hours worked, occupation by four-digit SOC: ASHE](#) (Table 14) (viewed August 2024)

<sup>30</sup> SCM Network [International Standard Cost Model Manual](#) (page 19) (viewed August 2024)

<sup>31</sup> ONS, [Earnings and hours worked, occupation by four-digit SOC: ASHE](#) (Table 14) (viewed August 2024)

<sup>32</sup> SCM Network [International Standard Cost Model Manual](#) (page 19) (viewed August 2024)

- 10.19. The one-off familiarisation costs for owners (i.e., managers, directors and senior officials) of small and micro firms are assumed to be £21,919,594.24.
- 10.20. The one-off familiarisation costs for HR managers and directors of medium and large businesses are assumed to be £771,292.49.
- 10.21. Total familiarisation costs for all private businesses across GB with at least 1 employee are £22,690,886.73.
- 10.22. Note 1a: The impact assessment on workplace harassment assumed that familiarisation of the three proposed legislative changes would take 0.75 hours for micro and small businesses and 1 hours for medium and large businesses.<sup>33</sup> As only one of these measures is proposed here, it is assumed that the familiarisation time will be only 0.5 hours in each case. This was based on internal discussion on the complexity of the measure. These are best estimates of the time required but sensitivity analysis has been carried out using low and high estimates.

### **Cost of defending a tribunal case: Businesses**

- 10.23. Context: The main identified annual costs to businesses arise from the legal costs of defending additional Employment Tribunal (ET) cases that are brought as a result of the legislative changes.
- 10.24. The average cost to employers of defending a tribunal case is calculated as the time spent on the case by staff and the cost of legal advice and representation. It is assumed that these costs will be incurred by employers for all cases brought to a tribunal.
- 10.25. The median time spent defending an Employment Tribunal case is taken from the Survey of Employment Tribunal Applications (SETA) 2018<sup>34</sup> as 6.25 days for directors/senior officials and 0.5 days for other staff (assumed to be primarily HR managers). This is the most recent available evidence; figures are in line with the 2002 and 2007 surveys and are not expected to have changed significantly.

---

<sup>33</sup> Equality Hub (formerly Government Equalities Office), [Workplace harassment: legal protections under the Equality Act 2010](#) (2021)

<sup>34</sup> Department for Business and Trade and Department for Business, Energy & Industrial Strategy, [Survey of employment tribunal applications 2018](#) (2020)

- 10.26. In the UK in 2023, the median salary for Managers, directors and senior officials was £23.85 per hour excluding overtime.<sup>35</sup>
- 10.27. The CAGR in median hourly pay, between 2014 and 2023 for Managers, directors and senior officials, excluding overtime, was 2.4%. Assuming that this rate of growth continued, their median pay in 2024 would have been £24.41. This is uplifted by 30% to cover non-labour costs to £31.74 an hour.<sup>36</sup>
- 10.28. In the UK in 2023, the median salary for a Human Resource Manager and Director was £26.31 per hour excluding overtime.<sup>37</sup>
- 10.29. The CAGR in median hourly pay, between 2014 and 2023 for a Human Resource Manager and Director, excluding overtime, was 1.2%. Assuming that this rate of growth continued, their median pay in 2024 would have been £26.62. This is uplifted by 30% to cover non-labour costs to £34.61 an hour.<sup>38</sup>
- 10.30. The average cost of legal advice and representation for an Employment Tribunal case is taken from SETA 2018 as £4,100 (82% of employers paid for legal advice and representation, and the average cost was £5,000, we therefore calculate a weighted cost to estimate the average cost to be applied to additional cases with legal representation;  $82\% \times £5,000 = £4,100$ ). We then brought this forward to 2024 prices using the Bank of England's Inflation Calculator<sup>39</sup> to get a cost of £5,180.26.
- 10.31. The average cost of an employment tribunal case to an employer is therefore £6,905.70 per company, consisting of directors/senior officials time ( $6.25 \times 8 \times £31.74 = £1,587.00$ ), other staff time ( $0.5 \times 8 \times £34.61 = £138.44$ ) and legal advice and representation (£5,180.26).
- 10.32. In 2022/23 there were 8,963 discrimination employment tribunal cases for the private sector.
- 10.33. In line with the 2012 Impact Assessment on removing third-party harassment provisions,<sup>40</sup> we assume that the provisions could result in an upper estimate of a 0.4% increase, and a

---

<sup>35</sup> ONS, [Earnings and hours worked, occupation by four-digit SOC: ASHE](#) (Table 14) (viewed August 2024)

<sup>36</sup> SCM Network [International Standard Cost Model Manual](#) (page 19) (viewed August 2024)

<sup>37</sup> ONS, [Earnings and hours worked, occupation by four-digit SOC: ASHE](#) (Table 14) (viewed August 2024)

<sup>38</sup> SCM Network [International Standard Cost Model Manual](#) (page 19) (viewed August 2024)

<sup>39</sup> Bank of England, [Inflation Calculator](#) (viewed August 2024)

<sup>40</sup> Equality Hub (formerly Government Equalities Office), [Review of third party harassment provisions: impact assessment](#) (2012)

lower estimate of no change in the annual number of cases accepted at Employment Tribunal. A best estimate of 0.2% is used.

- 10.34. Therefore we calculate 18 additional employment tribunal cases per year, resulting in a total cost across all GB private businesses with at least 1 employee of £123,791.58 per year.

### **Settlements and compensation costs: Businesses**

- 10.35. Compensation and settlement costs are included as indirect costs to businesses. These will only occur if employers have failed to comply with the proposed legislation and therefore are not included as a direct cost to businesses. The EANDCB should only include costs that are incurred as a result of complying with the new measures; which if employers have done, they would be able to successfully defend any claims and would not be required to pay to settle cases or provide compensation.
- 10.36. The average compensation awarded in a discrimination tribunal case in 2022/23 was £13,403.00. This was calculated as the mean of the median compensation awarded for race, sex, disability, religious, sexual orientation and age discrimination cases, weighted by the number of cases of each type of discrimination.<sup>41</sup>
- 10.37. The median settlement value in a discrimination tribunal case is estimated using SETA 2018 as £5,000.<sup>42</sup> It is assumed that settlement costs will be incurred by employers for cases which are privately settled.

### **Costs to public sector:**

- 10.38. Context: The main public sector costs include the development of guidance on the measure for companies with at least 1 employee.

### **One-off guidance development costs: public sector**

- 10.39. Guidance necessary to support companies, with at least 1 employee, familiarise themselves with the requirements of the measure will be developed and published. This will extend the existing guidance<sup>43</sup> on harassment at work.

---

<sup>41</sup> Ministry of Justice, [Employment Tribunal and Employment Appeal Tribunal Tables 2022 to 2023](#). (2023)

<sup>42</sup> Department for Business and Trade and Department for Business, Energy & Industrial Strategy, [Survey of employment tribunal applications 2018](#) (2020)

<sup>43</sup> Equality and Human Rights Commission, [Sexual harassment and harassment at work](#) (202

- 10.40. The yearly pay of a grade 6 analyst, in 2023/24, at the middle of the pay band is £66,950 for a member of staff outside of London. This is uplifted by 30% to cover non-labour costs to £87,035 a year.<sup>44</sup>
- 10.41. The development of guidance for companies, with at least 1 employee, is assumed to take 3 weeks. This is based on the development of guidance on the extraction and calculation of gender pay gap figures.<sup>45</sup>
- 10.42. The cost of a grade 6 analyst for three weeks, including the uplift for non-labour costs, is £5,021.

### **Costs to HM Courts and Tribunal Service**

- 10.43. This measure may increase costs to HM Courts and Tribunal Service. We assume the impact would be minor as, according to SETA 2018,<sup>46</sup> the total number of discrimination cases was 16,005 and we are predicting a maximum of 36 new cases as a result of this measure. We believe that it is sensible to keep these under review, given that the costs may be substantially different by the time these proposals are closer to being introduced, and will work with OGDs to update this assessment with any additional evidence.

## **Costs and benefits to business calculations**

### **Total first year costs: Businesses**

- 10.44. The total annual costs of this measure for GB private companies with at least 1 employee is £22,814,678. See section 1 of this evidence base for details.

### **Total annual costs: Businesses**

- 10.45. The total annual cost of this measure is £123,791.58. This cost would be shared across all GB private companies with at least 1 employee. See section 1 of this evidence base for details.

---

<sup>44</sup> SCM Network [International Standard Cost Model Manual](#) (page 19) (viewed August 2024)

<sup>45</sup> Equality Hub (formerly Government Equalities Office), [Gender pay gap reporting: guidance for employers](#) (viewed August 2024)

<sup>46</sup> Department for Business and Trade and Department for Business, Energy & Industrial Strategy, [Survey of employment tribunal applications 2018](#) (2020)

- 10.46. These costs are the annual, repeatable, costs that form part of the total costs for year 1. They have been discounted in line with the Standard Discount Rates and Associated Discount Factors outlined in HM Treasury's Green Book,<sup>47</sup> for years 2 to 10.

### **Total 10 year costs: Businesses**

- 10.47. The total cost to private business, discounted in line with the Standard Discount Rates and Associated Discount Factors outlined in HM Treasury's Green Book,<sup>48</sup> for the first 10 years of the measure is £23,756,435.
- 10.48. Total 10 year costs assume that annual delivery costs (outlined above) remain stable.

## **Impact on small and micro businesses**

- 10.49. Of around 27 million employees in the private sector in the GB in 2023, around 31.4% are employed by SMEs.
- 10.50. All employees, regardless of what size of organisation they work for, should be protected from harassment and therefore we do not feel it is appropriate to exempt SMEs from these new measures.
- 10.51. Employers are already liable for incidents of harassment in their work place and as such should already be taking action to protect their employees.
- 10.52. Guidance to enable a clearer understanding of the laws and the preventative steps employers should be taking, will help businesses of all sizes.
- 10.53. The impact of the legislation is expected to be larger for medium and large businesses; it is not expected to have a disproportionate impact on SMEs. This is mainly due to the fact that: larger firms have more employees and there is therefore scope for a larger number of harassment cases; and larger firms are more likely to pay for Employment Tribunal advice and representation than smaller firms.<sup>49</sup>

---

<sup>47</sup> HM Treasury, [Green Book](#) (2022) (table 7)

<sup>48</sup> HM Treasury, [Green Book](#) (2022) (table 7)

<sup>49</sup> Department for Business and Trade and Department for Business, Energy & Industrial Strategy, [Survey of employment tribunal applications 2018](#) (2020)

- 10.54. Small and micro businesses make up around 97% of businesses with employees in GB. Therefore, one-off familiarisation costs are expected to fall mostly on small and micro businesses. However, our best estimates suggest that it will cost £17.31 per medium/large business to familiarise themselves with the new legislation, while it will cost £15.87 for small and micro businesses.
- 10.55. The costs of the legislation are largely based on the cost of defending a tribunal case to an employer. In Section 1, it is assumed that costs are experienced equally by all businesses. However, SETA 2018<sup>50</sup> suggests that smaller firms are less likely to pay for advice and representation than larger firms:
- 87% of businesses with 250+ employees pay for representation
  - 80% of firms with 50 to 249 employees pay for representation
  - 77% of firms with 25 to 49 employees pay for representation
  - 76% of firms with less than 25 employees pay for representation
- 10.56. As a result, the cost implications of additional Employment Tribunals for small and micro businesses is likely to be less than estimated in Section 1.

## **Costs and benefits to households' calculations**

- 10.57. The measure outlined in this impact assessment is specific to companies with at least 1 employee. There are no costs for households as a result.

## **Business environment**

- 10.58. The measure applies only to companies with at least 1 employee. As such there are no barriers to entry into UK markets as companies would already need to exist for the measure to apply.
- 10.59. The measure has a small on-going annual cost per company. This cost is assumed to be low enough not to encourage innovation, prevent investment, or growth in a business.

---

<sup>50</sup> Department for Business and Trade and Department for Business, Energy & Industrial Strategy, [Survey of employment tribunal applications 2018](#) (2020)

## Trade implications

- 10.60. As set out in the Better Regulation Framework guidance, all Impact Assessments must consider whether the policy measures are likely to impact on international trade and investment.
- 10.61. The measure applies to businesses with at least 1 employee and has a small on-going annual cost. This cost is assumed to be low enough not to encourage innovation, prevent investment, or growth in a business.
- 10.62. From a legal standpoint, the policy does not impact international trade as it is compliant with international obligations and does not have any implications for trade partners or foreign businesses operating in the UK.
- 10.63. The preferred option will not introduce requirements on foreign-owned companies that go above and beyond those which are UK-owned.

## Environment: Natural capital impact and decarbonisation

- 10.64. The measure applies to businesses with at least 1 employee and we expect that there is no or negligible impact on the environment, natural capital, and decarbonisation as a result of this measure. The regulation does not directly relate to environmental or decarbonisation goals.

## Other wider impacts

- 10.65. The measure is linked to commitments made in the Government's manifesto and the King's speech (see section 3 for details) that are associated with greater equality of opportunity for people in the UK.
- 10.66. The measure applies to businesses with at least 1 employee and does not have an effect on the impact of those businesses on other areas not outlined elsewhere in this impact assessment. This includes areas such as public health, defence, national security, animal welfare, systemic risk, market resilience.



## Overall benefits

- 10.67. The overall benefits of this measure include wider welfare benefits from a reduction in sexual harassment in the workplace. It is likely this measure would produce a range of benefits from a reduction in the proportion and number of employees who are sexually harassed in the workplace, a reduction in the number of cases brought to the Employment Tribunal, and improved equality in the workplace. Companies who are seen to deal strongly with sexual harassment are likely to get a boost to their reputation, increasing trust in employers, which may help to attract customers, clients and talent. These are complex and difficult to quantify or monetise; however, their impact on households and businesses is expected to be positive.
- 10.68. Most calculations on the economic impact of equality for businesses are significantly broader in range than this measure. For example, McKinsey Global stated that if women were to participate in the economy identically to men they could add as much as 26% to annual global GDP by 2025 (from 2016).<sup>51</sup> It is expected, however, robust workplace protections provides for a happier workforce and concomitantly a more productive workforce:
- 10.69. Krekel and others (2019) find a positive correlation between employees' satisfaction with their company and employee productivity, and a strong negative correlation with staff turnover.<sup>52</sup> Additionally they find higher wellbeing at work to be positively correlated with more business-unit level profitability. These benefits are dependent on individual organisations and their circumstances.
- 10.70. Furthermore, Goal 5 of the United Nations Sustainable Development Goals is to “achieve gender equality and empower all women and girls”.<sup>53</sup> The UN states that gender equality is “...not only a fundamental human right but a necessary foundation for a peaceful, prosperous and sustainable world”. The goal goes on to discuss economic impacts (through unequal participation in the labour market), impacts on sexual violence, exploitation of women and discrimination in areas like public office.
- 10.71. There will also be non-monetised benefits from companies supporting the wellbeing of employees. Employees may feel safer, particularly in customer facing roles and when working with contractors.

---

<sup>51</sup> McKinsey Global Institute, [The Economic Benefits of Gender Parity](#) (2016)

<sup>52</sup> Krekel and others, [Employee Wellbeing, Productivity, and Firm Performance](#), Saïd Business School (2019)

<sup>53</sup> UN, [Goal 5: Achieve gender equality and empower all women and girls](#) (viewed August 2024)

## Public sector equality assessment

- 10.72. It is expected that this measure may have a net positive impact across those protected characteristics where there is evidence (sex, race, age and disability). Where there is no evidence, we could identify no potential negative impact for these protected characteristics.
- 10.73. The introduction of an obligation on employers to not permit third-parties to harass their employees has the potential to have a particularly positive impact on women, with the Government survey on sexual harassment finding that women were more likely to have been harassed by someone outside their organisation (20% compared to 8% of men).<sup>54</sup> As such, taking steps to tackle this could be a significant step towards eliminating harassment, advancing equality of opportunity, and fostering good relations with regard to sex.
- 10.74. Similarly, there is some evidence that people of certain ethnicities are more likely to be in customer-facing roles than others and therefore more likely to interact with third-parties, with 3.7% of Indian, 4.1% of Black/African/Caribbean and Black British, 4.4% of White, 5.2% of mixed/multiple ethnic group and 6.1% of Pakistani workers being employed in the Accommodation and Food industry in England as of April 2023 to March 2024. This is compared with 9.2% of any other Asian background, 12.9% of Bangladeshi and 14.0% of Chinese workers.<sup>55</sup> Therefore, the proposed protections could be particularly beneficial for the groups with a higher proportion of workers in customer-facing roles and who are more likely to interact with third-parties.
- 10.75. The Government survey similarly suggests that individuals from an ethnic minority background are more likely to experience workplace sexual harassment, with 32% of respondents from an ethnic minority background experiencing sexual harassment in the workplace in 2019-2020 (above the prevalence amongst the UK working population of 29%), compared to 28% of White respondents. Therefore, we consider that this proposal will have a positive impact across all limbs of the PSED in relation to the characteristic of race.
- 10.76. Third-party harassment protections could, furthermore, be said to be beneficial for the working age population as a proportion of individuals across all age groups interact with third-parties as part of their job. The Government survey on sexual harassment found that, in 2019-2020: 42% of 16-24 year olds, 44% of 25-34 year olds, 30% of 35-49 years olds, and

---

<sup>54</sup> Government Equalities Office, [2020 Sexual Harassment Survey](#) (2020)

<sup>55</sup> Data is calculated using the latest estimates from the ONS's Annual Population Survey as reported by [Durham University's Nomis service](#). Percentages are calculated using the number of workers from each ethnic group working in the Accommodation and Food Services Activities industry as a proportion of all workers by ethnic group in all industries. The data is reflective of the period April 2023 to March 2024.

13% of over 50 year olds had experienced harassment. We therefore consider that this proposal may have a positive impact with regards to age, with no negative impact upon those who are not of working age.

- 10.77. There is no evidence of the proportion of client and customer facing roles taken by those who are disabled, therefore, the introduction of new protections in this area cannot be said to be of particular benefit to them. However, the Government survey does show that, in general, those with a highly limiting disability (44%) were more likely to have experienced workplace sexual harassment in the last 12 months (2019-2020) than those with no disability (25%). Therefore, for those people with a highly limiting disability and in work, efforts to tackle workplace harassment could have a more marked positive effect across all elements of the PSED.
- 10.78. There is no known evidence on the proportion of LGB harassment where third-parties are the perpetrator, and we therefore cannot make assumptions about the direct impact that this proposal will have. However, as with other protected characteristics there is evidence to show that people with this characteristic are more likely to experience sexual harassment. The 2019 TUC survey of LGBT workers found that 68% of respondents had experienced at least one form of sexual harassment at work<sup>56</sup> (recognising that this survey also included transgender respondents). The survey also found that 20% of LGBT respondents who had experienced sexual harassment said their most recent harasser was a third-party, such as a customer, client or patient, supplier or contractor. These results are further supported by those within the Government survey, which found that 43% of LGB<sup>57</sup> people had experienced sexual harassment in the last 12 months (2019-2020), compared with 28% of heterosexuals.
- 10.79. There is little evidence specifically in relation to the protected characteristic of gender reassignment. While the TUC research is the most comprehensive it still looks at gender reassignment inseparably from the experiences of LGB people. It is therefore difficult to understand the impact third-party protections will have on this group; but given the prevalence of harassment experienced by LGBT people as a whole, as shown by the TUC figures, there is likely to be some positive effect.

---

<sup>56</sup> TUC, [Sexual harassment of LGBT people in the workplace](#), (2019) p.8. Survey is based on a sample of 1,001 adult LGBT workers (not weighted) in Great Britain who have worked within the last five years. No specific definition of sexual harassment was used, meaning a range of experiences is captured by the data

<sup>57</sup> Data from transgender respondents was analysed based on their selected gender but not analysed separately; this was due to a recognition that their experiences will differ significantly from LGB and will require separate analysis

- 10.80. We could find no evidence on the prevalence of workplace sexual harassment relating to the characteristic of pregnancy and maternity, but do not consider that the introduction of third-party protections will have a negative impact on this group in regard to all elements of the PSED. This is also the case for the characteristics of religion or belief, and marriage or civil partnership.
- 10.81. To date, there is no evidence to suggest that this policy will have specific impacts on people with other protected characteristics. If further evidence is identified, we will consider the implications for policy.

## **Risks and assumptions**

### **Assumptions**

- 10.82. The cost of advice and representation is incurred by employers for all successful cases brought to a tribunal.
- 10.83. It is assumed that compensation costs will be incurred by employers for cases which are successful at tribunal only, and are therefore indirect costs.
- 10.84. It is assumed that settlement costs will be incurred by employers for cases which are privately settled, and again are indirect costs to businesses.
- 10.85. We have assumed 100% of businesses will have familiarisation costs.
- 10.86. It is assumed familiarisation includes the time spent reading guidance on the new measures, likely from the Equality and Human Rights Commission, Office for Equality and Opportunity or HR or sector bodies; in order to understand the legal implications and next steps. Familiarisation may also include them refreshing their understanding of existing policies in the organisation, in order to assess whether they need to be adjusted in light of the changes to liability.
- 10.87. It is assumed that employers will consider the impact of all changes together, reducing the total amount of time required for all the changes.
- 10.88. It will take 0.5 hours for HR managers of medium and large firms and owners of small and micro businesses.

- 10.89. In line with the 2012 Impact Assessment of removing third-party provisions,<sup>58</sup> we assume that the provisions would result in an increase in the annual number of discrimination cases accepted at Employment Tribunal by 0-0.4%

## Risks

- 10.90. The number of businesses, assumed staff costs and time taken to familiarise with the legislation are key sensitivities covering a sizable proportion of costs.
- 10.91. There is uncertainty around expected changes to the number of harassment cases as a result of the measure. When employers take action, it may encourage more employees to come forward and bring tribunal cases, conversely the action employers take may create a decrease in harassment incidents, and thus less cases being brought.
- 10.92. Some assumptions are based on the approaches taken in the previous 2021 impact assessment on this measure.<sup>59</sup> These assumptions underpin the approach of the estimated impact. All assumptions have been reviewed internally to redetermine suitability, and updated where needed.

## Sensitivity analysis

- 10.93. Sensitivity analysis was considered in generating the costs used in this impact assessment. Specifically, it considered the impact of changes in the staff time required for familiarisation and the number of new tribunal cases on estimated costs.

### Staff time required for familiarisation

- 10.94. One-off familiarisation costs for business were estimated to be £15.87 per micro and small company, and £17.31 per medium and large company. This was calculated assuming a requirement of 0.5 hours of each key staff member's time.
- 10.95. An upper estimate was calculated where the time required was 0.75 hours per staff member. One-off familiarisation costs for business in this scenario were estimated to be £23.81 per micro and small company, and £25.96 per medium and large company.

---

<sup>58</sup> Home Office (GEO), [Review of third party harassment provisions](#) (2012)

<sup>59</sup> Equality Hub (formerly Government Equalities Office), [Workplace harassment: legal protections under the Equality Act 2010](#) (2021)

- 10.96. A lower estimate was calculated where the time required was 0.25 hours per staff member. One-off familiarisation costs for business in this scenario were estimated to be £7.94 per micro and small company, and £8.65 per medium and large company.

### **Recurring annual costs for businesses**

- 10.97. The annual cost of this measure for businesses is the cost of successfully defending additional employment tribunal cases. The average cost of staff time, and legal advice and representation for an Employment Tribunal case was £6,905.70 (see 'Cost of defending a tribunal case: Businesses' for details).
- 10.98. The number of new cases resulting from this measure was 0.2%, or 18 cases per year. Recurring annual costs for businesses in this scenario were £123,791.58 per year.
- 10.99. An upper estimate for the number of new cases resulting from this measure was 0.4%, or 36 cases per year. Recurring annual costs for businesses in this scenario were £247,583.16 per year.
- 10.100. A lower estimate for the number of new cases resulting from this measure was no change. Recurring annual savings for businesses in this scenario were £0 per year.

### **Total year 1 costs for businesses**

- 10.101. The total first year cost of this measure for GB businesses with at least 1 employee was estimated to be £22,814,678. See section 1 of this evidence base for details.
- 10.102. An upper estimate of the total first year cost of this measure for GB businesses with at least 1 employee is £34,283,913. This was calculated using the upper estimate of both time taken for familiarisation and the number of new tribunal cases.
- 10.103. A lower estimate of the total first year cost of this measure for GB businesses with at least 1 employee is £11,345,443. This was calculated using the lower estimate of both time taken for familiarisation and the number of new tribunal cases.

### **Total 10 year costs for businesses**

- 10.104. The total 10 year cost of this measure for GB businesses with at least 1 employee was estimated to be £23,756,435. See section 1 of this evidence base for details.
- 10.105. An upper estimate of the total 10 year cost of this measure for GB businesses with at least 1 employee is £36,167,427. This was calculated using the upper estimate of both time taken for familiarisation and the number of new tribunal cases.
- 10.106. A lower estimate of the total first year cost of this measure for GB businesses with at least 1 employee is £11,345,443. This was calculated using the lower estimate of both time taken for familiarisation and the number of new tribunal cases.