

Written evidence from Professor Loretta Trickett and Dr Kirsty Welsh [EOV0040]

How effective is (a) the police service and (b) the criminal justice system at responding to these behaviours and offences and how might those responses be improved?

Public Harassment of women and girls: off-line and on-line

There is a growing awareness that men's abuse of women and girls is not restricted to our real lives but extends into our virtual worlds too, with increasing access to technology and smart phones leading to an explosion of 'technology-facilitated sexual violence'.¹ Yet, for years, the public harassment of women and girls has not been dealt with and there has been virtually no regulation of harmful material online. There are significant gaps in the existing laws and a failure fully to implement potentially relevant legal remedies. For instance, there is nothing in the legal framework on hate crime which addresses the category of sex/gender. Following the evaluation of Nottinghamshire Police's Misogyny Hate Crime policy (Mullany and Trickett, 2018)² the government recommended all police forces in England and Wales should begin recording misogynistic harassment of women and girls. There was a government U-turn on this in Autumn 2020, quickly followed by the Law Commission's rejection of arguments to extend existing hate crime categories to include misogyny or sex/gender. Although the Law Commission recommended introduction of a new offence of inciting hatred on the basis of sex/gender, currently, however, women and girls remain unprotected from misogynistic hate crime both in person and online.

The attention around Nottinghamshire Police's misogyny hate crime policy did however raise the issue of routine misogynistic harassment of women and girls. Plan International UK and Our Streets Now³ highlighted the inadequacy of existing law to deal with this issue and campaigned for a new public harassment offence. This received Royal Assent on 18th September 2023. This is a gender-neutral offence and does not explicitly acknowledge the role of misogyny in harassment of women and girls.

Similarly, women who experience on-line image based sexual abuse⁴ are poorly served by a 'patchwork'⁵ of offences, which are inadequately implemented by the police and criminal justice services.⁶ This has led to high levels of harmful content appearing in both offline and online spaces, resulting in a prevailing discourse that objectifies women and a narrative that violence is warranted and legitimate.

¹ N. Henry and A. Powell, 'Beyond the "sext": Technology facilitated sexual violence and harassment against adult women' (2015) 48 Australian & New Zealand Journal of Criminology 104; N. Henry and A. Powell, A, 'Sexual Violence in the Digital Age: The Scope and Limits of Criminal Law' (2016) 25 Social & Legal Studies 397

² <https://www.nottinghamwomenscentre.com/misogyny-hate-crime/misogyny-evaluation-report/>

³ <https://plan-uk.org/file/public-sexual-harassment-legal-briefing-apr21pdf/download?token=V5C-F0i5>

⁴ C. McGlynn, E. Rackley, E. and R. Houghton, 'Beyond 'Revenge Porn': The Continuum of Image-Based Sexual Abuse' (2017) 25 Feminist Legal Studies 25

⁵ Law Commission, 'Intimate Image Abuse: A Consultation Paper (Law Com No 253)' (HMSO: London, 2021)

⁶ See, for example, E. Bond and K. Tyrell, 'Understanding Revenge Pornography: A National Survey of Police Officers and Staff in England and Wales' (2021) 36 Journal of Interpersonal Violence 2166

A further U-turn on recognising how misogyny fuels such abuse can be seen in the Online Safety Bill. Initially, the Online Safety Bill promised to place a duty of care, overseen by an independent regulator, on Tech companies to make them take more responsibility for people's online activities and to police the harms caused by illegal content or activity on their services and also to hold companies responsible for policing *harmful but legal content*. This version of the Bill did not, though, stand the challenge from libertarians and other lobbying groups and all provisions on 'content harmful to adults' were replaced with new 'terms of service duties' and 'user empowerment tools'. In choosing not to put a duty on platforms to assess the risk of harm to adults from content that is harmful but not criminal and in putting the onus on individual users to protect themselves from viewing content that is abusive or encourages hate against them, the Bill is a massive retreat from previous government promises. There is now no incentive for platforms to design their services in ways that discourage, address or reduce damaging content and there is effectively a shifting onto women themselves of policing content that has either not made the criminal threshold or is otherwise harmful in supporting and sustaining hostility against women and girls.

Whilst both the Protection from Sex-based Harassment in Public Act 2023 and Online Safety Bill do have some merits, currently, very little is being done to address the wider context in which misogyny is encouraged and endorsed by offline and online environments in which women and girls are on the receiving end of targeted abuse, both generally and individually.

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