

Written evidence from Deborah Annetts, Chief Executive, Independent Society of Musicians [MiM0001]

I am writing to thank you for your invitation to give evidence to the Women and Equalities Committee's Misogyny in Music hearing on 28 January and to follow up on some of the issues covered in the session.

The ISM was set up in 1882 to support all those working in music and is member led and run – it works much like a cooperative. The ISM represents over 11,000 musicians across the UK and our team of six lawyers handles approximately 2,000 member cases each year, over half of which are employment-related. Our legal work spans every area of law which might affect a musician in their professional life and we also provide counselling and hearing services as well as access to professional development and advice on visas when wishing to tour outside the UK.

Since 2017 we have led the way in researching bullying and harassment in the music industry with our series of ground-breaking reports. Our Dignity at Work second report published in 2022 revealed the shocking scale of discrimination right across the music sector, the majority of which (58%) was sexual harassment. The data showed that the problem was getting worse, with 66% of respondents reporting they had experienced discrimination, up from 47% in our 2018 report. It also showed that many working in music do not report the discrimination, often due to a fear of reprisals that would affect their ability to work. This was particularly high among freelancers, 88% of whom did not report the discrimination they experienced. One woman told us: 'Reporting.... would most definitely damage my professional career.'

Background on freelancer protections

The situation is perpetuated by the lack of clear and robust protections under the Equality Act for freelancers, who make up 83% of the music workforce. Nearly all ISM members work as freelancers in some capacity.

In the music workforce, it is, for example, standard practice for professional musicians to engage in a practice known as 'depping'. This is where the professional musician sends a substitute (a 'deputy') of their choice to take their place in the orchestra or ensemble, so that they can fulfil a different professional commitment. The dep 'stands in' for the absent musician in the orchestra.

For many years, this practice of 'depping' has left these women without protection because

of the restrictive language used in section 83(2) of the Equality Act (the section of the Act that says who is entitled to protection). In recent years, employment tribunals have stepped in to try to plug some of this gap in protection, for at least some women, depending on the facts of each case. However, the language of the Act has not changed, leaving organisations uncertain of their obligations, and women uncertain as to their rights, which is incredibly unsatisfactory.

We have been calling for many years for the language of section 83(2) of the Equality Act to be strengthened so as to spell out clearly that all freelance musicians are protected from sexual harassment and discrimination. In this connection, we note the planned consultation on a single 'worker' status and look forward to engaging with this consultation, as an opportunity to try to achieve some much-needed clarity for our freelance members.

Another key point for the ISM is that workforce protections in this field have also been weakened by the deep cuts to the Equality and Human Rights Commission (EHRC), which has seen its funding cut from £53 million in 2010 to £17.8 million today. Without adequate funding, the EHRC cannot fulfil its responsibilities as the enforcer of the Equality Act 2010.

The need for a robust legislative framework

The ISM has been calling for government action to make the music workplace safe for many years and we welcomed the recommendations of the 2024 Misogyny in Music report, which aligned with many of our own. We were deeply disappointed that the previous government chose to ignore them.

Given the previous government's failure to act, it is unsurprising that the situation has not improved since the publication of the Misogyny in Music report. We urgently need a robust legislative framework which properly protects women working in music, and we welcome the Labour Government's ambition to improve protections. We are pleased that the Employment Rights Bill will extend the time limit to bring a case before the Employment Tribunal from three to six months, something we have been campaigning for since 2018.

We also welcome the proposal to require employers to take all necessary steps to prevent harassment at work and the new protections against third-party harassment, although this endorsement must be qualified by our concerns set out above around the lack of clarity for freelance musicians as to whether or not they are protected by the Equality Act, which is perpetuated in this new piece of legislation.

Similarly, although we are very pleased to see that the Bill proposes much-needed improvements to parental rights, it does not address the unfairness of the maternity system for self-employed women. Our legal team are regularly contacted by pregnant freelance musicians who are struggling to get to grips with the Maternity Allowance system, which has not been reformed for many years and which has failed to keep pace with changes in the way women work. A key source of unfairness for our members is that whereas employed women on maternity leave are free to do self-employed work (beyond their 10 Keeping in

Touch days) while still being paid Statutory Maternity Pay (SMP) by their employer, self-employed women in receipt of Maternity Allowance (MA) are not permitted to do any work at all, beyond the 10 KIT days.

In practical terms, in the music sector, this creates a specific unfairness because of the very high proportion of freelance women. They find themselves having to weigh up whether to mothball their businesses in order to receive MA, unable to supplement their income in financial ways that are available to their employed counterparts. They also report finding it near impossible to speak to a real person at the DWP for advice about this. We hope the planned review of the protections for the self-employed and/or the review of the parental leave system will include this issue.

Nor does the Bill address the widespread use of non-disclosure agreements (NDAs) to silence women in music, which helps to perpetuate the culture of harassment, although we are encouraged by the recent indication from Justin Madders, the workers' rights minister, that the government will be looking more closely at what can be achieved, and we look forward to contributing to new proposals.

While we very much welcome the commitment of the new Labour government to improve rights for working people, we remain concerned that these future reforms may not adequately protect women working in music, which is notorious as an unsafe workplace for many.

Recommendations to government

We therefore urge the Committee to reiterate its recommendations to government from the Misogyny in Music report, in particular the following (which we have adjusted where necessary to reflect progress in this area):

- Amend section 83 of the Equality Act 2010 so that the protections relating to discrimination and harassment clearly include all freelancers and those who are standing in ('depping') for another musician.
- Amend the new mandatory duty on employers/contractors to take **all** reasonable steps to prevent sexual harassment (section 17 of the [Employment Rights Bill](#)) to spell out that it extends to all freelancers.
- Amend the new rights to protection from third party harassment (section 18 of the Employment Rights Bill) to spell out that they extend to all freelancers.
- Bring section 14 of the Equality Act into force and consider whether an amendment to that section is required to better protect those facing intersectional inequality.
- Prohibit the use of NDAs in cases involving sexual abuse/harassment/misconduct, bullying or harassment, or discrimination related to a protected characteristic.

We also urge you to join the ISM in calling for the following:

- Government to fund the Equality and Human Rights Commission properly so that it

can more effectively enforce the Equality Act.

- Reintroduce the use of discrimination questionnaires to make it easier to challenge potentially discriminatory behaviour at work.

Finally, we want to conclude with a few words to explain why we believe that in our sector, a system of clearly drawn employment rights, set out in legislation, enforceable via a publicly funded and free to access employment tribunal, overseen by a statutory regulator, remains the most effective way of protecting women in the workplace. It goes without saying that these rights must also sit alongside (1) access to good quality information for individuals about their rights and proper support in enforcing them; and (2) strong internal policies and reporting mechanisms for organisations, along with good quality guidance and training on 'best practice'.

We strongly believe that for organisations, the knowledge that their bad behaviour can result in legal claims in a public forum operates as a powerful deterrent, provided that those rights are set out clearly in legislation and that there are no artificial barriers to enforcement (such as tribunal fees). It is our view that organisations need to understand that engaging in unlawful discrimination or harassment can have serious and costly reputational consequences – for the organisation and the perpetrator. In all workplaces, but perhaps most acutely, in our creative industry space, there is a profound imbalance between the bargaining power of organisations and individuals. An individual's ability to access justice by enforcing statutory equality rights is an essential part of the mechanism in attempting to right this power imbalance.

The evidence we have collected demonstrates that organisations in our sector need to do more to tackle out of date practices and behaviours.

We hope this extra feedback is helpful and we are extremely grateful for the Committee's support in tackling the embedded misogyny in the music sector. If the ISM can assist in any way please do let me know.

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