

Written evidence submitted by the British Retail Consortium (BRC) (VTR0015)

The BRC

1. The BRC is the trade association for UK retailers, representing around 70% of the UK retail industry (by turnover). Together our members employ just over 1.5 million colleagues. Our purpose is to make a positive difference to the retail industry and the customers it serves, today and in the future. Violence against retail colleagues is one of our, and our members' priorities. The safety of colleagues is paramount. For us, this is a human issue and not a financial one and we are wholly passionate about it.

2. We are very happy to provide this response and wish to record our thanks to the Committee and Clerks for issuing the inquiry and Call for Evidence at pace. We hope the inquiry will produce some robust recommendations for government to consider and adopt, which will address the growing scale of retail violence and deter those who would commit such acts. Retailers are playing their part but are looking to the Government to move quickly to match that ambition and drive. Our clear recommendation is that new legislation needs to be brought forward to provide the protection that our colleagues need.

Introduction

3. Our interest in the inquiry stems from the growth in incidents of violence and abuse against retail workers. Our 2018/19 [Annual Crime Survey](#) showed that there were 424 violent or abusive incidents against retail workers every day. These tend to be in relation to challenging shoplifters; enforcing age restricted sales; refusing to serve intoxicated customers and, since the start of the pandemic, implementing Covid safety measures. It is against this backdrop that retailers are spending record amounts on crime prevention - £1.2 billion in 2017/18. Despite this, the losses attributed to crime rose to £1.0 billion, making a total cost to retailers of £2.2 billion. This represents resources that could be better used investing in improved services for customers, hiring and training staff, or opening new stores. It is also a heavy burden to bear at a time when retail margins have been squeezed by a combination of rising costs, weak demand and changing customer behaviour driven by new technology and the outbreak of Covid-19.

4. More recently, as the inquiry's terms of reference recognise, Covid-19 has resulted in a sharp increase in incidents, including threats to spit or cough on staff. One retailer alone recorded 990 incidents of violence or abuse in the first week after face coverings became compulsory in shops – the wearing of face coverings and requests to remove them for age verification purposes being one of the more recent triggers for abuse. One member had to provide all its in-store security staff with plastic shield face coverings due to the number of threats and actual cases of coughing and spitting. Furthermore, in a recent BRC survey, another retailer recorded 3329 verbal abuse incidents between 5th April and 30th May. One omni-channel retailer also reported an increase in verbal abuse towards contact centre staff by customers, mainly in relation to order delays due to the pandemic. Another recorded a 140% increase in in-store crime during the coronavirus lockdown, with 1,350 attacks in June alone, including incidents of staff being spat and coughed on.

5. The trend in violence and abuse is upwards with growth of about 33% over 3 years. Worryingly, it is now the case that some staff see this as part of their job – which should never be the case.

(VTR0015)

6. Retail workers are in a vulnerable situation, on occasions being alone in a store or with only one other colleague, sometimes late at night and can face intimidation from someone potentially carrying a knife or other dangerous objects. Weapons are increasingly being used to threaten violence, such as a knife being shown to a colleague as part of an organised gang stealing or indeed an individual acting alone. A recent example of this:

'The duty manager was made aware of a suspect who had stolen razor blades. When he challenged the man, the suspect threatened to stab him whilst holding his hand in his pocket, clearly indicating he had a knife. The manager allowed the suspect to leave with the stolen goods.'

7. Shopworkers are also in a different situation from many other victims in that their job requires them to return to the same situation day after day, and thus sometimes fear that the next customer could be violent or abusive. Some members have even reported instances of threats from offenders who live in the local area and claim they know where a store worker lives and will go after them. Others have reported incidents of psychological intimidation such as stalking shopworkers when they leave the premises at lunchtime, causing significant distress. A recent example of this:

'A female threw carrot cakes at the store manager and pushed the security guard and called a BAME colleague a "Chinese Bitch". The suspect threatened the store manager, saying she would wait for the manager outside the store.'

8. As a result, the BRC has repeatedly called for increased penalties and sentences for offenders attacking shopworkers. A specific new statutory criminal offence of assaulting, threatening, or abusing retail workers (who have been classified as essential workers throughout the pandemic) and allows for aggravation of that offence, at least where the retail worker is enforcing a statutory age restriction, is now necessary for their protection. This proposal is similar to the Bill at final stage in the Scottish Parliament and supported by the Scottish Government who are leading the way on this issue. We hope this inquiry will be a driver for the Government to build on its initial recognition of the impact of violence in retail and make the legal repercussions for these crimes match the level of harm it causes our hardworking retail colleagues.

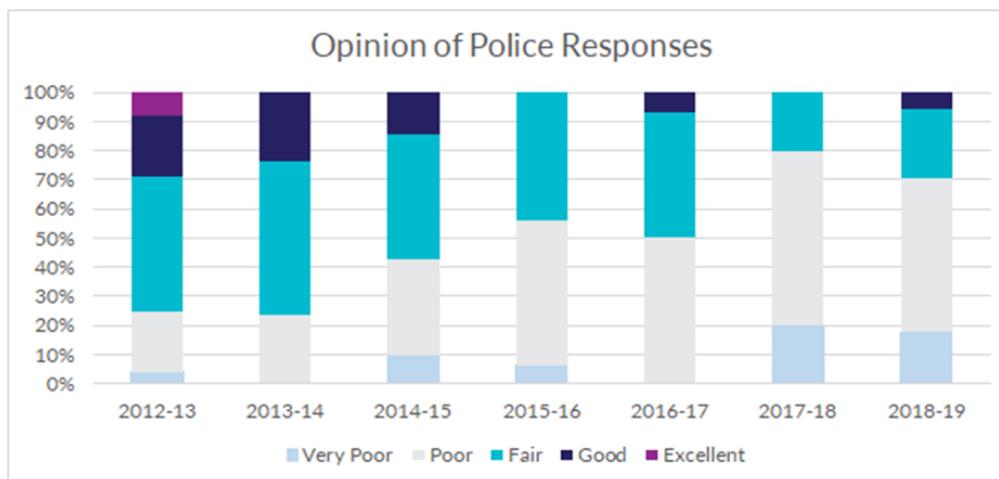
Terms of Reference

The police response to incidents of abuse and violence towards retail workers

9. The retail industry has the utmost respect for serving police officers and their colleagues. The importance of their work, which is carried out in extremely challenging and hazardous circumstances should never be underestimated, even more so since the outbreak of Covid-19. Their bravery and dedication on behalf of the wider community is of the highest order.

10. The BRC Retail Crime Survey has surveyed retailer confidence in the police for some time. The view of the police response at a strategic and tactical level is regrettably not positive, although there has been some improvement. We think that this is an area where, working together, the Government, policing governance and retailers can come together to drive improvement.

The following graph represents retailers' opinion of police responses over time:



11. As per the above, our most recent survey shows that around 70% of respondents view the police response as 'Poor' or 'Very Poor', down from 80% in the previous year's survey. Around 25% see the response as 'Fair', comparable with last year, and 5% as 'Good', up from 0% last year. This is slightly promising, but there is clearly much further to go to achieve a satisfactory view overall.

12. The lack of confidence in the police response and, in a significant number of cases, the failure to act once reported, has resulted in a widespread tendency amongst some store workers to no longer report incidents, meaning the scale of the issue is likely to be worse than what is currently known. To that end, we would recommend an immediate and fully funded HM Inspectorate of Policing thematic review of policing of retail violence, including attitudes to retail victims, response frameworks and relevant prioritisation. This would help identify the better performing forces and allow the less effective ones to learn much-needed lessons.

13. Given the nature of the situation already described, coupled with the fact that only 17 out of 42 Police and Crime Plans reference business crime or shoplifting, and only two mention retail crime specifically, it is important to encourage Police and Crime Commissioners (PCCs) to make provision for retail violence in their Police and Crime Plans. This would make retail violence a local priority for each force and lead to an improved police response. This should be accompanied by appropriate resources for local forces to properly prioritise this issue. The Government has announced that it intends to recruit an additional net 20,000 police officers over the next few years, which is very welcome. We would therefore ask that some of the new resource be diverted to focus specifically on retail crime to tackle the growing rate.

14. From the clear evidence our members see, the incidents also appear to be increasingly linked to the activities of organised criminal gangs. These criminals are targeting retail as a stable income stream and are prepared to use violence or threats of violence to get their way. When surveyed, over 90% of our members have seen an increase in the amount of gang related crime they witness. None saw a decrease. Many of our members have observed that such crimes are perpetrated on a large scale. They are executed with a high degree of planning and expertise, involve a hierarchy and pre-set roles and responsibilities. These are not casual or opportunistic criminal activities.

15. As reported in 'Desperate for a Fix' by the Centre for Social Justice, the proceeds of retail crime are used to fund drugs crime. At present, the mobility of the relevant criminals and the nature of the harm they cause means local police forces are not appropriately structured to meet the challenge. Some of

the new policing resource could also focus on organised violent gangs, as bringing a small number of professional criminals to justice could significantly reduce the harm to the industry and public. There is also some evidence of mobile gangs who move from area to area, seeking to exploit the boundaries between different police forces and different response models. As such, gangs are exploiting county lines divisions between police forces and the regionalised structure of UK policing. One option would be to look at establishing a cross-region taskforce tasked with identifying, tracking, and apprehending the most seriously violent offenders who work across and between force boundaries.

Barriers to justice for victims of retail abuse and violence

16. Violence is a scourge on our industry and the three million people who work tirelessly to deliver for customers around the country. It harms the people who work in our shops; the families they go home to and the communities they belong to and work on behalf of. In some cases, weapons including knives, are used to threaten or injure staff as they go about their job. It is retail workers who are on the frontline dealing with the effects of a wider societal issue.

17. As already outlined, there is a tendency for retail workers to sometimes not report incidents to the police as confidence that the incident will be dealt with effectively has faded over time. We recognise the need for the police to prioritise and the challenging circumstances they face in terms of resourcing, but the existing framework has meant that some colleagues now see this behaviour as part of their job. One key driver of this lack of confidence is the rate at which reported, potentially serious crimes, are 'NFA'd' – that is the police decline to take any further action. Data obtained through the Freedom of Information Act in 2017 showed very high rates of NFA. Across more than 800 reports to the Metropolitan Police, for example, 85% were NFA'd and 9% charged.

18. The bureaucracy of some reporting systems and the amount of time it takes to report an incident have also acted as a barrier to report crimes. This is preventing victims from receiving any real sense of justice. There is also a sense of feeling afraid to report some offenders to the police due to the community nature of some retail stores. In some cases, offenders have claimed they know where a retail colleague lives and will face repercussions if they seek help from the police.

19. Additionally, there is sometimes nervousness from retailers to report these incidents as they are concerned that significantly greater reporting will drive decisions to punish retailers, for example by curtailing their licence to trade in some way. It is essential that this is addressed, otherwise this is simply a clear example of punishing a victim. This is an area where the Government could, and should, act. Section 182 of the Licensing Act 2003 requires the Secretary of State to issue guidance on the issuing of licences to retailers who sell alcohol. We would recommend that the Secretary of State's guidance under Section 182 of the Licensing Act 2003 on the issuing of licences to retailers who sell alcohol be revised and made clear that reported violence and/or abuse of retail colleagues should never be a factor in a licensing decision. This would remove one barrier to better reporting and thus justice for victims.

20. We also note that the apparent lack of use of an aggravated offence which exists for sentencing purposes has also prevented justice for victims. In 2018, just 800 adult offenders were sentenced for racially/religiously aggravated common assault. This coupled with the lack of adequate resourcing for the criminal justice system and the backlog of cases has presented real challenges for retail workers seeking justice. That is why a specific new statutory offence of assaulting, threatening, or abusing a retail worker, and allows for aggravation of that offence when enforcing a statutory age restriction, is

(VTR0015)

now warranted for those who commit these crimes. Adequate resourcing also needs to be made available to the criminal justice system, including the courts, so that cases can be processed more efficiently, and the backlog reduced.

21. As for the existing offences which criminals can already be prosecuted for, we have responded to the recent Sentencing Council guidelines consultation and support 'spitting' being explicitly referenced as a factor increasing the offence seriousness. To this we would add 'coughing' and 'threats to spit or cough'. These are very similar in kind to threats by drug users to use a syringe – threats with which shopworkers have lived for some years. Of course, we recognise this can only be effective if the police take such actions seriously – which is not always the case.

22. We also note the reference to an additional guideline for assaults on emergency workers, mirroring the special offence. However, we believe that even in the absence of a specific offence it would be appropriate to have a separate guideline for workers that have face to face dealings with the public – including shopworkers. We believe that this would help to emphasise that this should be regarded as an aggravated offence and strengthen the courts resolve to deal with such incidents effectively and indeed where appropriate to remember that such offences can and should be regarded as aggravated.

Whether a new aggravated offence is required

23. There is a very strong perception throughout the industry that beyond the police (including how crimes are recorded at the contact centre level) several areas of the criminal justice system could benefit from improvement. First is sentencing, including Out of Court Disposals. Although difficult to fully particularise as the retailer may not always be aware of the sentencing outcome, there is a clear impression, based upon a considerable number of examples over time, that violence against retail colleagues may not be charged or prosecuted as an appropriately serious offence (perhaps downgraded to 'shoplifting') or punished with an appropriately serious offence. There is a clear case for MoJ statisticians to research and analyse the available data to understand and give a much clearer picture of sentencing outcomes for those convicted of retail violence.

24. Despite strong support in the Government's recent Call for Evidence, the Government rejected the need for a new offence of assaults towards shopworkers 'for the time being' on the grounds offences against retail workers are already included in the category for aggravated offences. Whilst true, the problem goes further than simply stating laws already exist to protect retail workers. Those who attack store workers, or indeed any public facing worker, can be prosecuted for aggravated assault, but the feedback we hear from our members time and time again is that they seldomly are. Further, following a written question in Parliament by Philip Davies MP (Official Report, 6 March 2019), the Ministry of Justice revealed exactly how many shoplifting offences criminals might be convicted for before receiving an immediate custodial sentence: in 2016, one offender received their first custodial sentence after 435 previous offences; in 2017, 279 previous offences; and, in 2018, 287 previous offences. Focusing purely on 'customer theft from a retailer' offences, the respective figures were 66, 47 and 62. Clearly, the system is failing retailers and the customers who rely on them. Common law assault has not been effective either in dealing with the increasing problem of violence and abuse in retail.

25. In response to a survey in August 2020, which asked our members what proportion of the total number of incidents reported to the police since 1 January 2020 went to court, 100% of respondents

(VTR0015)

said only between 0-20%. We are also aware of incidents whereby more lenient punishments are administered to offenders, such as Out of Court Disposals. There is now a case for a comprehensive review of Out of Court Disposals for offences where there has been an element of violence and abuse to ensure that interventions are tackling the root cause of offending such as drug and alcohol addiction, instead of issuing fines to repeat offenders.

26. We believe that legislating for a specific new offence of assaulting, threatening or abusing a retail worker and allows for aggravation of that offence, at least where the retail worker is enforcing a statutory age restriction, is also necessary to deal with this ever-growing problem. The legislation would mirror the Protection of Workers (Retail and Age-restricted Goods and Services) (Scotland) Bill about to complete its final stage in the Scottish Parliament. Not only would it send a clear message to offenders that violence will not be tolerated, it would also acknowledge the important work that retail workers do to enforce the law and for their heroic efforts on the frontline throughout the pandemic. A specific new offence would make it clear to victims, offenders, police, and the wider criminal justice system on how they should charge, prosecute, convict and sentence offenders, leading to more appropriate punishments and restoring justice for victims. It would also increase the number of incidents reported, thus reducing the number of occasions which retail workers would have to face this type of abuse or assault. The existence of such a statutory offence would also make it easier to identify how many individuals have been charged with and prosecuted for relevant offences which would provide an indicator of progress made in reducing the instances of this type of crime.

27. The Sentencing Bill should provide the legislative mechanisms for the Government to introduce a specific new statutory offence and sentences for attacks on shopworkers in the course of their work, similar to the penalties for attacking emergency workers. Not only would this provide the appropriate protections for retail workers in the course of their duties i.e., a statutory duty placed on them by the Government to enforce restrictions on age restricted goods (a key trigger for violence or abuse), but it would also enable better recording of statistics and a better police response. With age-restricted sales, our colleagues are being put at greater risk because of the responsibilities placed upon them by the law. These have expanded over time. Our members are clear: they will fully discharge any lawful requirements Parliament places upon them. But when this creates flashpoints that lead to violence, it must be incumbent upon Parliament and government to provide adequate protection through the Criminal Justice System. At present, the clear industry view is that this does not happen as offenders go unpunished.

28. Whilst we of course encourage reporting to the police and have been at the centre of moves to make the process more effective and efficient (e.g. working with the NBCC on their guidance for reporting crimes), the creation of specific new legislation, we are in no doubt, would bolster reporting. The Government also recognised this during the passage of the Assaults on Emergency Workers (Offences) Act 2018, whereby Baroness Vere of Norbiton argued that:

"... by providing the targeted offence in this Bill, victims will be encouraged to report assaults".

The adequacy of the Government's response to its call for evidence

29. We welcomed the Government's response to the call for evidence which was published in July 2020 and was set up in response to pressure from the BRC during the passage of the Offensive Weapons Act.

30. We were particularly pleased that the report recognised that violence and abuse can impact the mental wellbeing as well as the physical health of retail workers. We supported the joint retail/Home Office task and finish groups which have now been established by the co-chair of the NRCSG, Kit Malthouse MP – Minister for Policing. The Minister will be taking forward some of the recommendations of the responses, including reporting; supporting victims; barriers to data transfers; and better communication of the impact. The work of these groups should provide some practical proposals for the short term. The Government response also acknowledged the need for an improved police response – something the BRC has long called for and referenced earlier in this submission.

31. We were, however, disappointed that despite strong support in the call for evidence, the Government rejected the need to introduce a specific new offence for attacking retail workers. Retailers, business groups, unions and MPs have been calling for this intervention for several years now, with a Bill to provide additional protection for retail workers having been introduced twice to the House of Commons. As previously mentioned, the Scottish Parliament is already legislating for this too.

32. Finally, recommendations to look at the Sentencing Council Guidelines and Sentencing legislation were welcome, along with the indication that offences against shopworkers can already be treated as aggravated, even though they seldom are. Moreover, as already mentioned, this is no substitute for the message that a change in the law would send and which would have been effective in better protecting retail workers throughout the pandemic. This legislation will of course not be a silver bullet to end shopworker abuse, however, it will send a powerful message that retail workers play a vital civic role and deserve to be protected from violence at work. We will continue to campaign for a specific new offence as a means – like the separate offence for emergency workers – of both emphasising the special nature of such attacks and enabling better recording of statistics and a better police response.

Policy Recommendations

Improving Sentencing

- Increase penalties and sentences for offenders by legislating for a specific new statutory offence for assaults towards retail workers. This would include assaulting, threatening, or abusing a retail worker, and making those offences aggravated at least where the retail worker is enforcing a statutory age restriction.
- Review the Sentencing Guidelines and make specific reference to shopworkers as public facing workers.
- A comprehensive review of the Out of Court Disposals system to ensure that interventions are tackling the root cause of offending such as drug and alcohol addiction, instead of issuing fines to repeat offenders.

Police Response to Retail Violence

- The Home Office should commission and fund H.M. Inspectorate of Constabulary and Fire Services (HMICFRS) to undertake a thematic review of violence against retail colleagues, including the links to theft and damage, and invite representatives from retail onto the Steering Group.
- Encourage Police and Crime Commissioners to make provision for retail violence in their Police and Crime Plans, making retail violence a local priority for each force.
- Provide appropriate resources for local police forces to properly prioritise this issue by allocating some of the new policing resource to focus on retail crime.
- Look to establish a cross-region taskforce tasked with identifying, tracking, and apprehending the most seriously violent offenders who work across and between force boundaries.

(VTR0015)

Justice for victims

- Amend the Section 182 guidance to make clear that crime against a business cannot count towards alcohol licensing reviews.
- Properly resource the criminal justice system, including the courts, to enable more cases to be dealt with more efficiently and reduce the backlog.

February 2021