

## Written submission from the Home Office (SPP104)

1. The Government takes all forms of harassment extremely seriously. Unwelcome advances that intimidate, degrade or humiliate, are an abuse of power and are unlawful. Whether it's in the workplace, on the street, or as part of domestic or sexual abuse – sexual harassment, in any situation, is unacceptable. Nobody should be subjected to unwanted conduct of a sexual nature or be put in a compromising situation – and the law on harassment, sexual assault and rape is crystal clear.

### *Legislation*

2. A range of legislation is in place to cover sexual harassment, including in public places, and a range of appropriate consequences and sanctions already exists if harassment occurs. The Government is satisfied that the criminal law is already comprehensive in protecting against sexual harassment and assault but keeps this area of law under constant review.
3. This legislation includes:
  - a. **Public Order Act 1986**, which gives the police powers to act in respect of a broad canvas of criminal offences relating to public disorder including behaviour causing or likely to cause harassment, alarm or distress.
  - b. **Protection from Harassment Act 1997**, which makes it an offence for someone to pursue a course of conduct which he or she knows or ought to know amounts to harassment and can include harassment by two or more defendants against an individual or harassment against more than one victim.
  - c. **Sexual Offences Act 2003**, which contains a number of offences, including rape, assault by penetration, and sexual assault which can be used to prosecute the most serious criminal behaviour, i.e. that which amounts to sexual assault. It also contains a number of offences relating to sexual offences against children, and the abuse of positions of trust.
  - d. **Protection of Freedom Act 2012**, which introduced a new offence of stalking involving fear of violence or serious alarm or distress. This offence may be prosecuted where someone causes another person serious alarm and distress through behaviour, which could include sexual harassment that has a substantial effect on their day-to-day activities. This Act also includes a stalking offence where a course of conduct amounts to stalking and the person knows or ought to know that their behaviour amounts to stalking, but where someone is not necessarily put in fear of violence or caused serious harm or distress.
4. In addition, the Equality Act 2010 made further provision to outlaw sexual harassment in non-public places. Section 26 of the Equality Act 2010 defines

harassment as any 'unwanted conduct' related to one of the Act's nine protected characteristics, including gender, and makes clear that it is also harassment to engage in 'unwanted conduct of a sexual nature'. The Act provides a civil remedy for harassment in employment, the provision of services, the exercise of public functions, the occupation, disposal or management of premises, education, and associations such as private clubs. The Act covers both targeted behaviour by one person towards another as well as general conduct. It does not cover acts of harassment between strangers in public places and those between prospective, current, or former sexual partners (unless they happen also to be work colleagues or linked by some other aspect of life to which the 2010 Act does apply), because this is covered already by separate legislation.

### *International commitments*

5. In December 2017, the European Parliament issued resolution 2017/2897 (RSP) on combating sexual harassment and abuse in the EU, condemning all forms of sexual violence and physical or psychological harassment and recognising that such acts constitute a systematic violation of fundamental rights.
6. In addition, Article 40 of the Istanbul Convention, to which the UK is a signatory, requires states to take necessary legislative or other measures to ensure that sexual harassment is subject to criminal or other non-criminal legal sanctions. Directive 2006/54/EC recognises that sexual harassment in matters of employment and occupation are contrary to the principles of equal treatment between men and women and could constitute discrimination on grounds of sex. We are satisfied that the law of England and Wales complies with that requirement.

### *Scale of sexual harassment of women and girls in public places*

7. Sexual harassment in public places is not centrally measured, and so we do not have evidence of prevalence, nor changes over time. Some incidents of sexual harassment may constitute criminal offences, but conviction data do not show which were a result of sexual harassment.
8. However, a recent YouGov survey found that 24% of women who responded felt that they had been subject to sexual harassment at some point over the past 5 years. The survey also demonstrated varying attitudes towards what constitutes sexual harassment, which, being defined by the individual experiencing it, can encompass different types of behaviour. For example, the survey found that young women were more likely to consider wolf whistling a form of sexual harassment than older women.
9. The Equalities and Human Rights Commission (EHRC) have launched an inquiry into sexual harassment in the workplace. The Government welcomes the EHRC's focus on this important issue, and will consider their recommendations when they report.

### *Social norms*

10. We know that legislation alone is not enough to tackle sexual harassment. The Government is committed to challenging myths and stereotypes around harassment and sexual misconduct to ensure that people properly understand the impact of sexual harassment. We understand that sexual harassment of women in public places is the result of harmful social norms that can perpetuate unequal power relations between men and women, and create an environment in which sexual harassment can occur.
11. The Government Equalities Office is taking forward a programme of work to address harmful social norms, including through mapping the evidence base and initiatives that engage men, boys and bystanders in Violence Against Women and Girls prevention, as well as meeting with stakeholders working in this area. The GEO is also working to challenge gender norms through increasing transparency on pay and promoting shared parental leave. This includes the introduction of mandatory gender pay gap reporting for all businesses with over 250 staff by the end of this financial year.
12. There is currently limited evidence to suggest a link between the consumption of pornography and sexual violence. The increased usage of the internet over the past 10-15 years has led to greater consumption of pornography. We recognise the need to protect children from this content, which is why we introduced age verification for pornographic websites through the Digital Economy Act. However, the incidence of sexual violence, as captured by the independent Office for National Statistics, has been relatively flat for the last five years (Crime Survey England and Wales), and while estimates fluctuate from year to year, there has been a downward trend since the 2005/06 survey.

#### *Prevention of sexual harassment*

13. We are also working to engage with young people about respect and equality in order to prevent sexual harassment from happening in the first place. That is why we have committed to making Relationships Education mandatory in all primary schools and Relationships and Sex Education (RSE) mandatory in all secondary schools. We are working towards teaching these subjects from September 2019. Through Relationships Education and RSE, we expect young people to be taught about what constitutes a positive, healthy relationship, as well as providing young people with an understanding of consent and boundaries.
14. We also know that younger children can be exposed to and influenced by negative gender stereotypes, so the Government Equalities Office has updated our Media Smart resources (with the Advertising Association) to help teachers and parents improve primary school children's understanding of how gender is represented in the media and their resilience to negative content.
15. In addition, following on from the successful 'This is Abuse' campaign, the Home Office and Government Equalities Office have funded £3 million in the last year to develop and run a new "Teenage Relationship Abuse – Disrespect No Body" campaign to tackle abuse within teenage relationships to encourage

teens to rethink their views of violence, controlling behaviour and what consent means within their relationships.

16. Involving caregivers, particularly fathers and male caregivers in teaching and modelling equality, respect, and nonviolence at home will also contribute to gender equality. The UK Government recently launched a £1.5 million campaign to promote shared parental leave, encouraging parents to play a more equal role in childcare.

### *Upskirting*

17. Upskirting behaviour has been successfully prosecuted on a number of occasions under the offence of outraging public decency.
18. The Ministry of Justice are reviewing the various laws in this area to ensure they remain appropriate, and the Home Office will continue to support the MoJ on this matter.
19. Home Office officials are also working closely with the College of Policing to develop a set of guidance for the police on the powers that already exist to tackle upskirting. Many cases of upskirting can be charged under the existing offence of 'outraging public decency'. The guidance will ensure that awareness of upskirting is raised and that appropriate action is consistently taken by frontline police officers.

### *Online harassment*

20. This Government also recognises that sexual harassment not only occurs in physical public spaces, but also online.
21. The law is clear that what is illegal off-line is also illegal online. We have robust legislation in place to deal with internet trolls, cyber-stalking and harassment, and perpetrators of grossly offensive, obscene or menacing behaviour. Section 127 of the Communications Act 2003 creates an offence of "sending, or causing to be sent, by means of a public electronic communications network, a message or other matter that is grossly offensive or of an indecent, obscene or menacing character. There are a number of other relevant offences. To ensure that the law continues to meet the modern challenges the internet presents the Department for Digital, Culture, Media and Sport have asked the Law Commission to conduct a review of online offensive communications legislation.
22. In October 2017 the Department for Digital, Culture, Media and Sport published the Internet Safety Strategy Green Paper to look at ways of tackling the online abuse of women and girls, where this falls short of a criminal offence, including trolling, harassment and abuse. This includes a commitment to introduce a voluntary social media code of practice which will specifically consider how harmful conduct impacts on female users. It will also introduce new transparency reporting which could also show the categories of complaints received by women on a platform, and the volume of content taken down, which will help to inform future policy in this area.

### *Sexual harassment in the education system*

23. The Department for Education published guidance for schools and colleges on how to prevent and respond to reports of sexual violence and harassment between children in December 2017. The guidance provides advice on what sexual violence and harassment is, how to minimise the risk of it occurring and what to consider when incidents do occur or are alleged to have occurred.
24. We have also worked with Universities UK to establish a taskforce to explore what more can be done to support the higher education sector to prevent and respond to incidents of violence and sexual harassment against women, hate crimes and other forms of harassment on university campuses and the communities in which students live.
25. In March 2017, the Higher Education Funding Council for England awarded more than £2 million to universities and colleges across the country to address sexual violence and harassment on campus.
26. In July 2017, Universities UK published a directory of case studies detailing the innovative projects universities are undertaking to address the issues raised in the 2016 Universities UK Taskforce's report 'Changing the Culture' as a means to share effective practice across the university sector. This includes projects such as the University of East Anglia student union's 'Never OK' campaign: an anti-sexual harassment campaign aiming to encourage people to talk about sexual harassment and challenge stigmas.

### *Sexual violence*

27. Where harassment becomes a form of sexual abuse, or leads to sexual assault, we expect every report of sexual violence to be treated seriously from the point of disclosure, every victim to be treated with dignity and every investigation and every prosecution to be conducted thoroughly and professionally.
28. We continue to work with the police to look at ways to improve police investigations of sexual assault and rape and ensure that their guidance on investigating and prosecuting these crimes is implemented in every police force area.
29. The Government is committed to ensuring that every victim of sexual assault has access to the specialist support they need. There are confidential helplines and online services for victims of sexual violence such as RapeCrisis. Additionally, there are funded helplines and services for individuals who have experienced sexual abuse including Safeline and The Women and Girls Network.

### *Violence Against Women and Girls*

30. The cross-Government VAWG Strategy sets out our approach to tackling all forms of VAWG, including domestic abuse, honour-based violence, stalking

and sexual violence. The Strategy recognises the gendered nature of these crimes, and commits to continue to challenge deep-rooted social norms, attitudes and behaviours that discriminate against and limit women and girls across all communities, including sexual harassment.

31. Over this spending review period, we are providing £100m of dedicated VAWG funding to continue to provide critical services for VAWG, and to support a transformation in local service delivery to support local areas to build coherent pathways of support for victims at every stage.
32. Where a criminal offence has taken place, we have set out a clear blueprint for local action through a new National Statement of Expectations (NSE). The NSE sets out what local areas need to do to prevent offending and support victims, and will encourage organisations to work with local commissioners to disseminate the NSE and support implementation of best practice.

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