

Scottish Parliament Economy, Energy and Fair Work Committee:  
Call for views on the Protection of Workers (Retail and Age-restricted Goods and Services) (Scotland) Bill

January 2020

Introduction

Daniel Johnson, MSP, introduced a Member's Bill on 10 October 2019. The Bill aims to increase protection for retail workers by:

- creating a new statutory offence of assaulting, threatening, abusing, obstructing or hindering a retail worker, and
- creating a statutory aggravation to that offence where the retail worker is enforcing a statutory age restriction.

The Scottish Women's Convention (SWC)

The Scottish Women's Convention (SWC) is funded to engage with women throughout Scotland in order that their views might influence public policy. The SWC uses the views of women to respond to a variety of Parliamentary, Governmental and organisational consultation papers at both a Scottish and UK level.

The Scottish Women's Convention engages with women using numerous communication channels including Roadshow events, Thematic Conferences and regional contact groups. This submission provides the views of women and reflects their opinions and experiences in a number of key areas relevant to the issues set out in the protection of women workers.

### What are your views on the Bill and what impact will it have?

The SWC is broadly positive of the views put forward within this particular bill and its overarching aim to enable greater protections for retail workers. Given that retail is heavily gender segregated with the vast majority of those working within the sector being female coupled with the high levels of abuse that is often tolerated, this is a particular issue.

Despite existing legislation, many workplaces still do not appropriately identify and take account of the threats made to staff. This includes the very high risk of sexually related verbal and even physical abuse and harassment that many women undergo. Further to this, the vast majority of women who have experienced these issues more often than not leave these threats unreported. This can be for a number of different reasons but often come down to a particular culture that may be fostered in such workplace environments where undertaking the responsibility to – rightly – report such abuse is not taken seriously and has become normalised as part of the job when dealing with customers.

### Having regard to existing offences (e.g. common law assault), is there a need for a new statutory offence of assaulting, threatening, abusing, obstructing or hindering a retail worker?

Having due regard for the regulatory procedures under which many workers operate when enforcing age requirements should entail the placement of special measures to protect such workers. Whilst upholding the law, many face abuse from the general public as well as heightened sexual harassment. There is a clear need to show that this treatment is unjustified.

For many in these situations, the work undertaken is often precarious in nature with low or zero hours contracts as well as little trade union membership. At present, many of the threats routinely suffered by women within this sector are put down as simply being part of the nature of the job. Women have raised a number of experiences including fear that a refusal will incite someone to wait for them to leave work as well as extremely offensive, highly sexualised abusive language when refusing sales. A new statutory offence would highlight to employers who are not currently following procedures to heighten training, awareness and ensure the full implementation of robust staff safeguards and reporting mechanisms.

### What are the potential benefits or problems in having such an offence?

A major issue at present within the sector is the extremely low volume of reporting that accompanies such offences when they take place. Any new legislation must be enacted in such a way as to counteract this issue. There is also the case for other potential problems which may arise and must be adequately dealt with if such legislation is to come to fruition:

- A fear amongst workers, particularly young women, that they will lose their job if they report abuse.
- The continuance of a culture within the retail sector that abuse is simply part of the job.
- The potential threat that any new legislation or offences that it introduces will remain relatively unknown to the wider public unless it is given adequate publicity to illustrate the seriousness of such offences.
- Problems that may arise where adequate training of the offence may not be implemented by managers and organisations.
- Issues where organisations may continue to be reluctant to allow staff to report such offences, fearing it will look bad on the workplace.

### What difference will the proposed aggravation, where the enforcement of a statutory age restriction is involved, make?

Introduction of the proposed aggravation has the potential to act as a significant safeguard against the problem where age restrictions lead to aggressive or violent behaviour by customers towards staff who are simply doing their job. For many women within this environment, this responsibility may carry the risk of having to face a flurry of abuse which can be both physical and highly sexual in nature. This can put many women in an extremely uncomfortable position whereby the refusal of products is balanced by the very real threat of intimidation.

The responsibility on enforcement of statutory age restrictions lies with the worker who is themselves liable for prosecution where they fail to carry out the appropriate checks. This can lead to high levels of abuse where sales are refused, leaving a real toll on staff health and wellbeing. It is imperative that such abuse is treated for the serious offence that it is.

### What are the financial implications of the proposals?

There are a number of financial costs that will have to be taken into account if the proposed Bill does become law. This would include adequate training for the enforcement of such legislation including administrative and court costs as well as the potential financial tally of publicity campaigns. Given the reasons laid out within this submission, however, it is highly arguable that the positives of protecting retail workers far outweighs these potential financial implications.

### What other action is or should be taken to protect retail and other workers?

Given the high volume of employment within the industry coupled with the heavily gendered nature of retail work, other controls must be afforded as well as this proposed legislation in order to foster safe and valued working environments for women. This should include:

- Encouragement of wider trade union membership within the sector to assert collective bargaining and equality rights.
- National and local publicity campaigns to illustrate how widespread aggression often is towards staff in these workspaces. This should include highlighting the value of these workers and the abuse they often face.
- Agreements between the wider private sector and Scottish Government around protection of shop staff.
- Encouraging the UK Government to reintroduce Section 40 of the 2010 Equality Act providing for employers to take reasonable steps against third party harassment.

### Conclusion:

Ensuring the safety of women within the workplace is paramount. Sectors where women dominate such as retail often provide numerous obstacles to gender inequality and are conducive to unsafe working environments where many face abuse and discrimination. Any legislation which seeks to put the safety of worker's first should be considered crucial for equality.

For further information, please contact

The Scottish Women's Convention

Email – [info@scottishwomensconvention.org](mailto:info@scottishwomensconvention.org)

Telephone – 0141 339 4797

[www.scottishwomensconvention.org](http://www.scottishwomensconvention.org)

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