



Pressing for
progress: women's
rights and gender
equality in 2018

Full report and recommendations

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List of abbreviations

AMs	Assembly Members
BIS	Department for Business, Innovation and Skills
CCGs	Clinical commissioning groups
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CO	Concluding Observations
CPS	Crown Prosecution Service
CQC	Care Quality Commission
DfE	Department for Education
DWP	Department for Work and Pensions
EA	Equality Act
ECHR	European Convention on Human Rights
EHRC	Equality and Human Rights Commission
EU	European Union
FGM	Female genital mutilation
FMU	Forced Marriage Unit
HBV	'Honour-based' violence
HMCPsi	HM Crown Prosecution Service Inspectorate
HMIC	HM Inspector of Constabulary
HMICFRS	Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services
HMI Prisons	HM Inspectorate of Prisons
HPV	Human papilloma virus

HRA	Human Rights Act
IRC	Immigration Removal Centre
IVF	In vitro fertilisation
JCHR	Joint Committee on Human Rights
LASPO	Legal Aid, Sentencing and Punishment of Offenders Act 2012
LGBT	Lesbian, gay, bisexual and trans
MSA	Modern Slavery Act
NHRIs	National Human Rights Institutions
NICs	National Insurance contributions
NICE	National Institute for Health and Care Excellence
NLW	National Living Wage
NMW	National Minimum Wage
NRM	National Referral Mechanism
ONS	Office for National Statistics
PSHE/PSE	Personal, social, health and economic
RSE	Relationships and sex education
SDG	Sustainable Development Goal
SPA	State pension age
SR VAW	Special Rapporteur on violence against women
STEM	Science, technology, engineering and mathematics
STI	Sexually transmitted infection
TUC	Trades Union Congress
UC	Universal Credit
UCAS	Universities and Colleges Admissions Service
UK	United Kingdom
UN	United Nations
VAWG	Violence against women and girls

WASPI Women Against State Pension Inequality

WAVE Women Adding Value to the Economy

YWT Young Women's Trust

Introduction

This report represents the response of the Equality and Human Rights Commission (the EHRC) to the UK Government's eighth periodic report to the United Nations Committee on the Elimination of All Forms of Discrimination Against Women.

The EHRC recognises and commends the progress made in the implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) since it was last reviewed in 2013, including:

- criminalising forced marriage (see page 43)
- introducing the Modern Slavery Act (see page 53)
- introducing shared parental leave (see page 82)
- bringing in tougher gender pay gap regulations (see page 89), and
- committing to establish mandatory, age-appropriate relationships and sex education (see page 103).

Nevertheless, we also focus on areas in which there has been insufficient progress, or are ongoing challenges in the realisation of CEDAW. Our report relates to 73% of the substantive Concluding Observations issued by the CEDAW Committee in 2013, many of which are still outstanding or not fully implemented.

Women's rights, gender equality and social norms have been the subject of much national and international debate in recent months. In the UK, a series of incidents have called into question the rigid set of assumptions many still have of women and girls and the significant problems they face, such as sexual harassment in schools and in the workplace (see pages 83-85 and 104-107).

This wide-ranging report – our broadest ever review into women's rights – seeks to demonstrate the extent to which gender inequality affects the various facets of women's lives. Recognising that women have diverse lived experiences, we have sought to include intersectional analysis where evidence allowed. However, persistent gaps in data disaggregated by protected characteristics remain, making it harder to identify multiple discrimination and disadvantage. The EHRC is clear, however, that CEDAW protects and relates to all women, and our recommendations should be read as applying to all groups of women.

This report also highlights the sometimes serious and extreme consequences of women's inequality. EHRC research has found that there is a clear link between commonly held, prejudiced attitudes and unlawful behaviour.¹ This aligns with the CEDAW Committee's recent general recommendation on violence against women, which states that 'the need to assert male control or power, enforce gender roles, or prevent, discourage or punish what is considered to be unacceptable female behaviour ... contribute to the explicit or implicit social acceptance of gender-based violence against women ... and to the widespread impunity in that regard'.²

Our aim is to encourage the UK and Welsh governments to use the CEDAW reporting process to continue and strengthen their efforts to assess progress and improve compliance with their human rights obligations. To this end, our submission includes specific recommendations, which we believe can support this important task.

Devolution and the scope of this report

The UK comprises four countries – England, Scotland, Wales and Northern Ireland. The UK Parliament has devolved various powers to the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly, and it maintains responsibility for matters that have not been devolved ('reserved' matters) and for England. Responsibility for implementing CEDAW therefore lies with the UK and devolved governments.

In addition, there are three separate legal systems in the UK – England and Wales, Scotland and Northern Ireland. The Supreme Court is the UK's highest court of law. It is the final court of appeal for all UK civil cases. It also decides 'devolution issues' about whether the devolved authorities in Scotland, Wales and Northern Ireland have acted, or propose to act, within their powers.

This report is presented as a detailed annex to our formal submission, and aims to cover England and Wales for all areas and Scotland for issues that are reserved to

¹ Equality and Human Rights Commission. 2016. 'Research report 101: Prejudice and unlawful behaviour, exploring levers for change', p. 14. Available at: <https://www.equalityhumanrights.com/en/publication-download/research-report-101-prejudice-and-unlawful-behaviour-exploring-levers-change> [accessed: 12 January 2018].

² Office of the High Commissioner for Human Rights. 2017. *Launch of CEDAW General Recommendation No. 35 on gender-based violence against women, updating General Recommendation No. 19*. [ONLINE]. Available at: <http://www.ohchr.org/EN/HRBodies/CEDAW/Pages/GR35.aspx> [accessed: 29 April 2018].

the UK Parliament (although in some cases, statistics and evidence for the UK or Great Britain as a whole are presented). A standalone list of the recommendations contained within is also presented as an annex.

These recommendations are addressed to the UK and Welsh governments only, though they may also be relevant to other devolved administrations. The separate submission of the Scottish Human Rights Commission will cover areas devolved to the Scottish Parliament, and the separate submission of the Northern Ireland Human Rights Commission will cover Northern Ireland. Cross-governmental working across the whole of the UK will be needed to fully realise the rights set out in CEDAW.

This report contains 10 themes and 30 sub-themes. The start of each section includes a note highlighting the CEDAW articles, the Committee's Concluding Observations and the Sustainable Development Goals that particular theme relates to.

Role and remit of the Equality and Human Rights Commission

The EHRC was established by the UK Parliament through the Equality Act 2006 as an independent body with a mandate covering equality and human rights. Among other human rights responsibilities, the EHRC is responsible for 'encouraging good practice in relation to human rights.' Our geographic remit for human rights covers England, Wales and those issues in Scotland that are reserved to the UK Parliament.

The UK Parliament has also given the EHRC responsibilities to assess and report on the UK's progress in realising the human rights in the treaties it has ratified. The EHRC works with other National Human Rights Institutions (NHRIs) in the UK – the Scottish Human Rights Commission and the Northern Ireland Human Rights Commission – and liaises with government departments and agencies to fulfil this role. All three NHRIs hold 'A status' accreditation with the United Nations.

Engagement with civil society

The UK previously had a separate Women's National Commission, an independent organisation to present the views of women to government; however this was abolished in 2010.³

As part of the EHRC's NHRI role in supporting the implementation of international human rights instruments, we conducted a competitive tender in 2017 and appointed Engender, the Women's Equality Network Wales and the Women's Resource Centre to independently submit a joint civil society shadow report to the CEDAW Committee.

Engender, the Women's Equality Network Wales and the Women's Resource Centre were also provided with EHRC funding to:

- produce three separately submitted reports on gender equality issues in Scotland, Wales and England respectively
- hold consultation events and conduct an online call for evidence on the major gender equality issues affecting women, and
- provide training for civil society organisations on how to engage with the CEDAW treaty reporting process.

³ Women's National Commission. 2010. Available at: <http://webarchive.nationalarchives.gov.uk/20110818085323/http://wnc.equalities.gov.uk/> [accessed: 30 April 2018].

1. Enhancing the status of international human rights in domestic law:

relates to CEDAW articles 2 and 3, CEDAW Concluding Observations (CO) paragraphs 9, 11, 13, 17, 29, 66 and 67 and Sustainable Development Goal (SDG) 10

Full implementation and incorporation of CEDAW

The UK and devolved governments have not directly incorporated CEDAW into domestic law and policy. Thus, neither its general principles nor its substantive provisions can be enforced by domestic courts. A number of CEDAW rights are given partial effect through the Equality Act 2010 (EA 2010),⁴ the Human Rights Act (HRA) and other legislation, policies and programmes.

Certain measures have been put in place that enhance the status of girls' rights in domestic law. In 2011, the Welsh Government introduced the Rights of Children and Young Persons (Wales) Measure, which placed a duty on the Welsh Ministers to have due regard to aspects of the Convention on the Rights of the Child (including Part 1) when exercising any of their functions.⁵

While strategies on some aspects of women's rights have been established,⁶ we are concerned that there is no coherent plan for achieving the full realisation of CEDAW. The UK and devolved governments should ensure they have a joined-up approach to their human rights obligations, including in relation to CEDAW, the Beijing Declaration and Platform for Action⁷ and the Sustainable Development Goals.⁸

⁴ See pages 13-14.

⁵ Available at: <http://www.legislation.gov.uk/mwa/2011/2/contents>. For information on the measure, see <http://gov.wales/topics/people-and-communities/people/children-and-young-people/rights/uncrc/?lang=en> [both accessed: 21 May 2018].

⁶ For example, the Home Office (2016), 'Strategy to end violence against women and girls: 2016 to 2020'. Available at: <https://www.gov.uk/government/publications/strategy-to-end-violence-against-women-and-girls-2016-to-2020> [accessed: 10 January 2018]

⁷ Available at: <http://www.un.org/womenwatch/daw/beijing/platform/> [accessed: 29 April 2018].

⁸ Available at: <http://www.un.org/sustainabledevelopment/sustainable-development-goals/> [accessed: 29 April 2018].

In addition, the UK Government has yet to confirm how it plans to implement all of the recommendations received by UN human rights bodies since 2013, many of which relate to women and girls.⁹

Recommendations

The EHRC recommends that the UK Government and Welsh Government, where relevant, should:

- incorporate CEDAW into domestic law so individuals can effectively challenge rights violations using the domestic legal system and access a domestic remedy for alleged breaches of CEDAW rights
- keep the reservations to CEDAW under regular review, publishing comprehensive explanations of their necessity, and
- ensure that implementation plans are published in follow-up to CEDAW and all UN reviews, demonstrating a joined-up approach in relation to the UK's various human rights commitments.

Human Rights Act 1998

The EHRC is concerned about the UK Government's commitment to bring forward proposals on a British Bill of Rights to replace the HRA 1998.¹⁰

The HRA gives further effect to the European Convention on Human Rights (ECHR) into domestic law. It provides essential protection to everyone in the UK and has been used to secure justice for women and to uphold their human rights.¹¹

The UK Government has stated it will 'consider the human rights legal framework' once the UK has exited the European Union (EU).¹² Election promises to change human rights laws, which the UK Government claims prevent it from tackling

⁹ Since 2013, the UK has been reviewed under the following UN instruments and mechanisms: the International Covenant on Civil and Political Rights (2015), the Convention on the Rights of the Child (2016), the International Covenant on Economic, Social and Cultural Rights (2016), the Convention on the Elimination of Racial Discrimination (2016), the Universal Periodic Review (2017) and the Convention on the Rights of Persons with Disabilities (2017). The UK will also be reviewed under the Convention Against Torture in 2019.

¹⁰ The HRA 1998 incorporates the European Convention on Human Rights into UK law and applies to the whole of the UK. Human rights are also protected in the devolution statutes (Scotland Act 1998, Government of Wales Act 2006). In Scotland, human rights are devolved to the Scottish Parliament.

¹¹ For a number of examples of how the ECHR has been used to protect women, see: <http://www.endviolenceagainstwomen.org.uk/human-rights-act-an-essential-tool-for-womens-protection/> [accessed: 21 May 2018].

¹² Conservative Party (2017), 'Forward, together: Our plan for a stronger Britain and a prosperous future'. Available at: <https://www.conservatives.com/manifesto> [accessed: 27 July 2017].

terrorism,¹³ also create uncertainty for the future of human rights legislation. The Scottish Parliament¹⁴ and Welsh Government¹⁵ have voiced opposition to this proposal.

Changing the HRA should only be considered as part of a broad and participative process that advances human rights protections by maintaining all the protections in the HRA and ensuring that the UK remains a party to the ECHR.

Recommendation

The EHRC recommends that the UK Government should:

- ensure that there is no regression in the protection of women's rights and their access to redress in light of proposals for changes to the human rights legal framework.

Full implementation of the Equality Act 2010

The Equality Act (EA) 2010¹⁶ provides protection against various forms of discrimination across Great Britain, particularly in areas such as work, the provision of goods and services, and education. The Act applies to nine 'protected characteristics'.

Some EA 2010 provisions are not in force, including the socio-economic duty (sections 1-3) and dual discrimination (section 14).¹⁷ Other provisions have been repealed, and there are a number of significant gaps in protection.¹⁸ The power to

¹³ BBC News. 2017. *Theresa May: Human rights laws could change for terror fight*. [ONLINE]. 7 June. Available at: <http://www.bbc.co.uk/news/election-2017-40181444> [accessed: 27 July 2017].

¹⁴ Motion passed by the Scottish Parliament, 11 November 2014; statement by the Cabinet Secretary for Social Justice, Communities and Pensioners' Rights, Alex Neill MSP, 15 May 2015.

¹⁵ Wales Online (18 May 2015) 'Welsh Government will do 'everything it can' to block repeal of the Human Rights Act' (news article). Available at: <http://www.walesonline.co.uk/news/wales-news/welsh-government-everything-can-block-9279496> [accessed: 10 January 2018].

¹⁶ The EA 2010 provides a legislative framework to tackle discrimination and advance equality across Great Britain, and places an equality duty (the Public Sector Equality Duty) on public authorities. The 'protected characteristics' identified in the EA 2010 are sex, race, disability, gender reassignment, age, pregnancy and maternity, marriage and civil partnership, religion and belief, and sexual orientation. See: <https://www.legislation.gov.uk/ukpga/2010/15/contents> [accessed: 21 May 2018].

¹⁷ Other provisions not yet in force or repealed include those relating to: caste discrimination – regulations under section 9 (5); the requirement for political parties to report on diversity of candidates – section 106; the employment tribunal power to make wider recommendations (repealed); third party harassment provisions (repealed); and discrimination and equal pay questionnaire procedure (repealed).

¹⁸ Gaps that raise concern include: workers who do not fall within the definition of an employee, contract workers or an agent of the employer; and children in education with particular types of impairment affecting behaviour.

introduce the EA 2010 socio-economic duty has been devolved to the Welsh Ministers.¹⁹

The Public Sector Equality Duty (the general duty) – as applied to the protected characteristic of sex – requires that public authorities have due regard to the need to: eliminate sex discrimination, harassment and victimisation; advance equality of opportunity between women and men; and foster good relations. The specific duties supporting that requirement vary across Great Britain, and in England are far less extensive than those in Scotland and Wales.

Recommendation

The EHRC recommends that the UK and Welsh governments, where relevant, should:

- reinstate all original, and commence any outstanding, provisions of the Equality Act 2010, including the socio-economic duty, and introduce new measures to address gaps in protection.

Implications of leaving the European Union

Following the EU referendum in June 2016, there continues to be significant constitutional uncertainty in the UK. The UK's withdrawal from the EU may mean that future equality and human rights protections from the EU are not binding in UK law and that existing ones may be removed. Employment rights and funding for women's services are areas of particular concern.²⁰

The European Union (Withdrawal) Bill was introduced in the UK Parliament on 13 July 2017. The accompanying White Paper states that 'all the protections covered in the Equality Act 2006, the Equality Act 2010 ... will continue to apply once the UK has left the EU'.²¹ However, this political commitment is not included in the Bill, and if passed in its current form the Bill will not retain the EU Charter of Fundamental Rights, resulting in a reduction in rights and remedies in domestic law.²² This

¹⁹ The Wales Act 2017 devolved the power to commence the EA 2010 socio-economic duty to the Welsh Ministers. See: <http://services.parliament.uk/bills/2016-17/wales.html> [accessed: 27 July 2017].

²⁰ <https://www.tuc.org.uk/sites/default/files/UK%20employment%20rights%20and%20the%20EU.pdf>

²¹ Department for Exiting the European Union (2017), 'Legislating for the United Kingdom's withdrawal from the European Union', p. 16. Available at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/604516/Great_repeal_bill_white_paper_accessible.pdf [accessed: 6 June 2018].

²² Protections such as the right to dignity (Article 1), the right to non-discrimination (Article 21), the rights of the child (Article 24), the right to fair and just working conditions (Article 31), and the right to an effective remedy (Article 47) do not have equivalent protection in UK law and may be lost.

includes Article 21, a free-standing right to non-discrimination that does not otherwise exist in domestic law.²³

There are also underlying concerns about the potential impact of the loss of EU funding in the domestic context. For example, the EU Rights Equality and Citizenship Fund has specific objectives to promote equality between women and men and prevent violence against children, young people, women and other groups at risk.²⁴

Wales currently receives £370m a year from the EU to invest in the Welsh Government's 2014-20 European Structural and Investment Fund programmes, including projects such as the 2012-15 Women Adding Value to the Economy project that tackled underlying causes of the gender pay gap in Wales.²⁵ 'Equal opportunities and gender mainstreaming' is one of three cross-cutting themes integrated into the 2014-20 programmes. Challenging gender inequality, both in the development of skills and in tackling the under-representation of women in key sectors, is a key issue for the European Social Fund in Wales.²⁶

Recommendations

The EHRC recommends that the UK Government should:

- ensure that there is no regression in the respect, protection and fulfilment of human rights as a result of the changes introduced following the UK's withdrawal from the EU
- ensure that the loss of EU funding does not undermine the UK's equality and human rights infrastructure, including the already scarce funding available to specialist services, such as those that support women survivors of violence and domestic abuse

²³ See: http://www.europarl.europa.eu/charter/pdf/text_en.pdf [accessed: 29 April 2018].

²⁴ See: http://ec.europa.eu/justice/grants1/programmes-2014-2020/rec/index_en.htm [accessed: 29 April 2018].

²⁵ Available at: <https://www.cardiff.ac.uk/research/explore/research-units/women-adding-value-to-the-economy-wave> [accessed: 6 June 2018]. The EHRC has commissioned a piece of research looking into the impact of the loss of EU funds. It will include a geographical analysis of the dispersal of funds across Great Britain, as well as a demographic breakdown of who makes use of the services that the funds help to finance.

²⁶ Equality, Local Government and Communities Committee Inquiry into Human Rights in Wales. Welsh Government Evidence paper. Accessed online: [http://senedd.assembly.wales/documents/s71506/Letter from Leader of the House and Chief Whip in relation to Human Rights in Wales 24 January 201.pdf](http://senedd.assembly.wales/documents/s71506/Letter%20from%20Leader%20of%20the%20House%20and%20Chief%20Whip%20in%20relation%20to%20Human%20Rights%20in%20Wales%2024%20January%20201.pdf) [accessed: 15 February 2018].

- publish rigorous equality and human rights impact assessments in advance of proposed changes to laws protecting equality and human rights, including analysis of the impact on women, and
- introduce a new domestic right to equality in UK legislation.

2. Participation in political and civic life: relates to articles 4, 7 and 8, CO paragraphs 31 and 43.a and SDGs 5, 9, 10, 11 and 16

Political participation

100 years on from (some) British women being granted the vote for the first time, a recent study has shown that women in the UK are just as likely to vote in elections as men.²⁷ However, for some, barriers remain. We welcome the UK Government's announcement that it plans to make it easier for domestic abuse survivors to register to vote anonymously.²⁸ Currently, survivors must provide a court order or have their application supported by a senior independent witness, such as a police superintendent.²⁹

Women now make up a record 32% of representatives (MPs) in the UK Government's lower (elected) chamber, the House of Commons.³⁰ This ranks the UK at just 39th globally, however, a fall from 25th place in 1999.³¹ Furthermore, just 4% of

²⁷ British Election Study. 2018. *Women, men, and the 2017 general election*. [ONLINE]. Available at: <http://www.britishelectionstudy.com/bes-findings/women-men-and-the-2017-general-election-by-jane-green-and-chris-prosser/#.WuWyVy7wblU> [accessed: 29 April 2018].

²⁸ Cabinet Office, Home Office, Sarah Newton MP, and Chris Skidmore MP. 2017. *Press release: Domestic abuse survivors given a voice to vote*. [ONLINE]. Available at: <https://www.gov.uk/government/news/domestic-abuse-survivors-given-a-voice-to-vote> [accessed: 29 April 2018].

²⁹ The UK Government plans to increase the number of people who can act as witnesses, including medical and healthcare professionals and refuge workers, and expand the type of evidence that can be put forward. However, proposals suggest this would be granted for a period of one year only and must be reviewed annually. Johnston, N. (2018), 'Anonymous electoral registration'. Available at: <http://researchbriefings.files.parliament.uk/documents/CBP-8202/CBP-8202.pdf> [accessed: 29 April 2018].

³⁰ Keen, R. and Cracknell, R. (2018), 'Women in Parliament and Government'. Available at: <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN01250> [accessed: 29 April 2018].

³¹ See: <http://archive.ipu.org/wmn-e/classif.htm> [accessed: 10 January 2018].

MPs are ethnic minority women.³² A major study into the diversity of the House of Commons was published in July 2016, and its recommendations are being taken forward by the newly created Commons Reference Group on Representation and Inclusion.³³ The EA 2010 extended the period during which women-only shortlists are permitted until 2030.³⁴ Data is not systematically collected on the diversity of MPs.³⁵ Section 106 of the Equality Act, if implemented, would require political parties to report on the diversity of their candidates.³⁶

Women's representation in local councils is also unequal. In England in 2017, 33% of local councillors and 17% of council leaders were women.³⁷ In Wales in 2017, 33% of Welsh local councillors and 18% of council leaders were women.³⁸ There is also considerable variation in female representation across Wales' 22 local authorities.³⁹ This is despite the concerted effort of the Welsh Government's Diversity in Democracy programme.⁴⁰

Progress in women's political participation at the national level in Wales has been erratic. When the National Assembly was formed in 1999, 40% of Assembly Members (AMs) were women. This grew to 52% in 2005,⁴¹ but now stands at 43% in

³² Audickas, L. and Apostolova, V. (2017), 'Ethnic minorities in politics and public life'. Available at: <http://researchbriefings.files.parliament.uk/documents/SN01156/SN01156.pdf> [accessed: 29 April 2018]. By comparison, in 2011 ethnic minorities made up 13% of the UK population, see: <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/bulletins/keystatisticsandquickstatisticsforlocalauthoritiesintheunitedkingdom/2013-10-11#ethnicity-and-country-of-birth> [accessed: 30 April 2018].

³³ Recommendations address three key dimensions: ensuring a diverse composition and achieving equality of participation; how Parliament organises itself and supports the work of Members; and making the culture of the House of Commons more inclusive. Childs, S. (2016), 'The good Parliament'. Available at: <http://www.bristol.ac.uk/media-library/sites/news/2016/july/20%20Jul%20Prof%20Sarah%20Childs%20The%20Good%20Parliament%20report.pdf> [accessed: 29 April 2018].

³⁴ Equality Act 2010 (chapter 15), section 105.

³⁵ House of Commons Library. 2017. *Diversity in the 2017 Parliament*. [ONLINE]. Available at: <https://commonslibrary.parliament.uk/parliament-and-elections/parliament/diversity-in-the-2017-parliament/> [accessed: 29 April 2018].

³⁶ Available at: <https://www.legislation.gov.uk/ukpga/2010/15/part/7> [accessed: 29 April 2018].

³⁷ Fawcett Society. 2017. *Does local government work for women?* [ONLINE]. Available at: <https://www.fawcettsociety.org.uk/local-government-commission> [accessed: 29 April 2018].

³⁸ Murphy, J. and Jones, K. (2018). Local Government Candidates Survey 2017. Cardiff: Welsh Government, GSR report number 25/2018. Available at: <https://gov.wales/docs/caecd/research/2018/180502-local-government-candidates-survey-2017-en.pdf> [accessed: 18 May 2018].

³⁹ Anglesey has the lowest proportion of councillors who are women with just 10%. Wrexham, Ceredigion, Pembrokeshire, Blaenau Gwent and Merthyr Tydfil all have less than 20%. As was the case in 2014, the three councils with the highest proportion of councillors who are women are Rhondda Cynon Taf and Swansea with 38% and Cardiff with 35%.

⁴⁰ See: <http://gov.wales/topics/localgovernment/diversity-in-democracy/?lang=en> [accessed: 20 May 2018].

⁴¹ Equality and Human Rights Commission. 2017. *Who runs Wales? 2017*. [ONLINE]. Available at: https://www.equalityhumanrights.com/sites/default/files/wrw_2017_english.pdf [accessed: 29 April 2018].

2018.⁴² The proportion of women cabinet members and ministers in the Welsh Government was 43% in 2018.⁴³ A report by the Expert Panel on Assembly Electoral Reform in Wales recommended integrating quotas into the Assembly's electoral system to increase women's representation.⁴⁴

Poor public perceptions of politics and the intimidation of parliamentarians are major barriers to participation. An inquiry by the UK Parliament's Committee on Standards in Public Life found that female candidates are disproportionately subjected to intimidation.⁴⁵ Research conducted by Amnesty into online violence found that in the six weeks prior to the election, almost half of all abusive tweets to female MPs in the UK were directed towards Diane Abbott, a prominent Black Labour MP. Excluding Diane Abbott, Black and Asian women MPs received 35% more abuse than White women MPs.⁴⁶ The 2016 EU referendum campaign also saw the first murder of a sitting MP since 1990, when Jo Cox was killed while working in her constituency.⁴⁷

Recommendations

The EHRC recommends that the UK and Welsh governments, where relevant, should:

- implement the statutory requirement for political parties to publish their parliamentary candidate diversity data for general elections, as set out in Section 106 of the Equality Act 2010, and in the interim, encourage political parties to publish voluntary diversity data via an independent third party, and
- actively encourage all women, particularly those sharing other protected characteristics, to participate in democracy and politics through outreach initiatives, and continue to investigate ways of reducing barriers to women's participation.

⁴² National Assembly for Wales 2018. [ONLINE]. Available at: <http://www.senedd.assembly.wales/mgMemberIndex.aspx?bcr=1> [accessed: 31 May 2018].

⁴³ See: <https://gov.wales/about/cabinet/cabinetm/?lang=en> [accessed: 6 June 2018]

⁴⁴ National Assembly for Wales. 2017. *A Parliament that works for Wales: report of the Expert Panel on Assembly Electoral Reform*. [ONLINE]. Available at: <http://www.assembly.wales/en/newhome/pages/newsitem.aspx?itemid=1797> [accessed: 19 January 2018].

⁴⁵ Committee on Standards in Public Life. 2017. *Intimidation in public life*. [ONLINE]. Available at: <https://www.gov.uk/government/publications/intimidation-in-public-life-a-review-by-the-committee-on-standards-in-public-life> [accessed: 29 April 2018].

⁴⁶ Amnesty Global Insights. 2017. *Unsocial media: tracking Twitter abuse against women MPs*. [ONLINE]. Available at: <https://medium.com/@AmnestyInsights/unsocial-media-tracking-twitter-abuse-against-women-mps-fc28aeca498a> [accessed: 29 April 2018].

⁴⁷ BBC News. 2016. *Jo Cox: Man jailed for 'terrorist' murder of MP*. [ONLINE]. Available at: <http://www.bbc.co.uk/news/uk-38079594> [accessed: 29 April 2018].

Public and private appointments

Public appointments are slowly becoming more representative of women. In England and Wales, women made up 45.5% of all public appointments and reappointments in 2016/7,⁴⁸ up from 39.3% in 2013/4.⁴⁹ The level of women being appointed chairs of public bodies remains low, at just 28%.⁵⁰

The boards of private companies fare worse, though the trend since 2012 has been positive. The Hampton-Alexander Review of FTSE Women Leaders found in October 2017 that the representation of women on boards in FTSE 100 companies was 27.7%, an increase of 1.1 percentage points on the previous year, and up from 15% in March 2012.⁵¹

Our 2016 inquiry into fairness, transparency and diversity in FTSE 350 board appointments found that of the FTSE 350 companies that responded to our survey:

- 60% failed to achieve the 25% women on boards target.
- Nearly a third (32%) reported largely relying on the personal networks of current and recent board members to identify new candidates.
- Just 2% publicised vacancies for non-executive roles on their websites, in newspapers or on social media.
- Job descriptions often relied on vague terms like 'chemistry' and 'fit' rather than clearly defined skills and experience.
- Nearly 75% of FTSE 100 companies and 90% of FTSE 250 companies had no female executive directors at all on their boards during the period surveyed.⁵²

Overall, our inquiry found that too few companies were taking action for improvement. Various reviews have since been conducted into the representation of

⁴⁸ The Commissioner for Public Appointments. 2017. *Annual Report 2016/17*. [ONLINE] Available at: <https://publicappointmentscommissioner.independent.gov.uk/wp-content/uploads/2017/07/OCPA-Report-2016-17-.pdf> [accessed: 29 April 2018].

⁴⁹ The Commissioner for Public Appointments. 2015. *Annual Report 2013/14*. [ONLINE] Available at: <https://publicappointmentscommissioner.independent.gov.uk/wp-content/uploads/2017/04/OCPA-Annual-Report-2013-14-1.pdf> [accessed: 29 April 2018].

⁵⁰ The Commissioner for Public Appointments. 2017. *Annual Report 2016/17*. [ONLINE] Available at: <https://publicappointmentscommissioner.independent.gov.uk/wp-content/uploads/2017/07/OCPA-Report-2016-17-.pdf> [accessed: 29 April 2018].

⁵¹ Hampton, P. and Alexander, H. (2016), Hampton-Alexander Review: FTSE Women Leaders. Initial Report for Department for Business, Energy and Industrial Strategy. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/658126/Hampton_Alexander_Review_report_FINAL_8.11.17.pdf [accessed: 29 April 2018].

⁵² Equality and Human Rights Commission. 2016. *An inquiry into fairness, transparency and diversity in FTSE 350 board appointments*. [ONLINE]. Available at: <https://www.equalityhumanrights.com/en/inquiries-and-investigations/inquiry-ftse-350-board-appointments/findings-inquiry-ftse-350-board> [accessed: 29 April 2018].

women on boards and at senior levels.⁵³ Further action is needed to encourage women to seek senior roles and create a talent pipeline for boards.

In the judiciary, as of 1 April 2017, 28% of court judges and 45% of tribunal judges in England and Wales were women.⁵⁴ The proportion was much higher for those aged under 40, although 85% of magistrates were aged over 50. In 2017, the judiciary published a 12-month action plan to improve diversity.⁵⁵ We welcome the appointment of the first female President of Supreme Court, Lady Hale, alongside the appointment of Lady Justice Black as only the second female justice in the UK's highest court.

Recommendations

The EHRC recommends that the UK and Welsh governments should:

- take action to improve women's representation on public boards, particularly at chair level, and in the judiciary, and consider introducing temporary special measures if progress continues to lag, and
- support a new national target for women to make up half of all new appointments to senior and executive level positions in all listed companies.

⁵³ Hampton, P. and Alexander, H. (2016), Hampton-Alexander Review: FTSE Women Leaders. Initial Report for Department for Business, Energy and Industrial Strategy. Available at: <https://www.gov.uk/government/publications/ftse-women-leaders-hampton-alexander-review>; Gadhia, J-A. (2016), 'Empowering productivity – harnessing the talents of women in financial services. Report for HM Treasury'. Available at: <https://uk.virginmoney.com/virgin/women-in-finance/> [accessed 21 May 2018]; HM Treasury (2016), 'Women in Finance Charter'. Available at: <https://www.gov.uk/government/publications/women-in-finance-charter> [accessed: 21 May 2018].

⁵⁴ Courts and Tribunals Judiciary. 2017. *Judicial Diversity Statistics 2017*. [ONLINE]. Available at: <https://www.judiciary.gov.uk/about-the-judiciary/who-are-the-judiciary/diversity/judicial-diversity-statistics-2017/> [accessed: 29 April 2018].

⁵⁵ Courts and Tribunals Judiciary. 2017. *Judicial Diversity Committee of the Judges' Council – Report on Progress and Action Plan 2016-17*. [ONLINE]. Available at: <https://www.judiciary.gov.uk/publications/judicial-diversity-committee-of-the-judges-council-report-on-progress-and-action-plan-2016-17/> [accessed: 29 April 2018].

3. Gender-based violence, harassment and abuse:

relates to articles 1, 2, 5.a and 16, CO paragraphs 21, 35.a-d and 37 and SDGs 5 and 16

Background and context

Violence against women and girls (VAWG) is both a cause and consequence of women's inequality. The continuum of VAWG, in its many forms, reflects the wider structural gender inequalities that make it 'one of the most pervasive human rights issues in the UK'.⁵⁶ It affects women's health and independence, reduces their ability to work and creates a cycle of economic dependence. Women's inequality limits their ability to escape from abusive relationships, can make it more difficult for them to enforce their rights, and can make them more liable to be subject to sexual harassment and sexual violence.

In 2014, the parliamentary Joint Committee on Human Rights (JCHR) undertook an inquiry into VAWG in the UK. It observed that: 'The scale, pervasive nature, and seemingly cross-cultural ignorance, of violence against women and girls is deeply troubling to us.' Witnesses to the inquiry raised a number of concerns about the UK Government's VAWG strategy at the time, including the lack of accountability if departments did not deliver against the strategy action plan. It was also queried why the Inter-Ministerial Group overseeing the strategy only covers England and Wales, when a UK-wide response is required under the 'Istanbul Convention' (see below).⁵⁷

⁵⁶ Equality and Human Rights Commission (2014), 'Submission to the United Nations Human Rights Committee Pre-Sessional Working Group on the United Kingdom's implementation of the International Covenant on Civil and Political Rights', pp. 54-7. Available at: https://www.equalityhumanrights.com/en/file/4311/download?token=G4agg_mX [accessed: 10 January 2018].

⁵⁷ Joint Committee on Human Rights (2015), 'Violence against women and girls. Sixth Report of Session 2014–15'. Available at: <http://www.parliament.uk/business/committees/committees-a-z/joint-select/human-rights-committee/news/violence-against-women-and-girls-report/> [accessed: 10 January 2018].

In 2016, the UK Government published a revised VAWG strategy.⁵⁸ The strategy aims to reduce all forms of VAWG and to increase: reporting; police referrals; and prosecutions and convictions. It also sets out the Government's intention to improve intervention and prevention. To support the strategy, the UK Government has pledged to provide £100m before 2020.⁵⁹ Major funding issues persist in the sector, however, including in relation to local authority funding. The strategy also makes a commitment to work more closely with local commissioners, and to improve funding for rape support centres.

Despite signing the Convention on Preventing and Combating Violence Against Women and Domestic Violence (the 'Istanbul Convention') on 8 June 2012, the UK still has not yet achieved ratification. In 2017, a Private Members Bill was passed into law that requires the Secretary of State for Home Affairs to lay an annual report before Parliament, detailing what measures have been taken towards ratification and the timescale for completion.⁶⁰

The first of these reports was published on 1 November 2017,⁶¹ and sets out the steps taken across the UK in line with the Istanbul Convention's key objectives: prevention, protection and prosecution. The UK Government's report states that ratification will take place 'when we are absolutely satisfied that the UK complies with all articles of the Convention'. No timetable was set out for this.

One of the outstanding issues identified is meeting the obligation under Article 44 to extend extra-territorial jurisdiction (the ability to prosecute certain offences that occur outside the UK's borders). The UK Government has proposed a Domestic Abuse Bill that would introduce the necessary legislative changes in England and Wales to allow for extra-territorial jurisdiction.⁶² The devolved administrations in Scotland and

⁵⁸ Home Office (2016). 'Ending Violence against Women and Girls Strategy 2016 – 2020'. Available at: <https://www.gov.uk/government/publications/strategy-to-end-violence-against-women-and-girls-2016-to-2020> [accessed: 10 January 2018].

⁵⁹ Ibid, and UK Government (2017), 'Spring Budget 2017'. Available at: <https://www.gov.uk/government/news/spring-budget-2017-support-for-women-unveiled-by-chancellor> [accessed: 18 May 2018].

⁶⁰ Preventing and Combating Violence Against Women and Domestic Violence (Ratification of the Convention) Act (2017). Available at: <http://www.legislation.gov.uk/ukpga/2017/18/contents/enacted> [accessed: 10 January 2018].

⁶¹ Home Office (2017), 'Ratification of the Council of Europe Convention on Combating Violence Against Women and Domestic Violence (Istanbul Convention) – Report on Progress'. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/656561/CCS207_CCS_1017309396-1_HO_Istanbul_Convention_report_WEB_ACCESSIBLE.PDF [accessed: 10 January 2018].

⁶² Home Office. 2017. *Press release: New measures to allow ratification of Istanbul Convention*. [ONLINE]. Available at: <https://www.gov.uk/government/news/new-measures-to-allow-ratification-of-istanbul-convention> [accessed: 10 January 2018].

Northern Ireland are considering what similar legislative changes are necessary to complete UK-wide ratification.

Recommendations

The EHRC recommends that the UK and Welsh governments, where relevant, should:

- ensure that they are undertaking joined-up, strategic cross-UK and cross-Government action to tackle VAWG and raise awareness of the issue
- implement all outstanding recommendations of the JCHR inquiry into VAWG, including the establishment of an adequately resourced, full-time coordinating body, and
- take urgent steps to put in place the necessary law, policy and practice changes to be able to ratify the Istanbul Convention and, once it is ratified, dedicate sufficient resources to central, devolved and local authorities to ensure its effective implementation.

Sexual violence

In the year ending December 2017, 145,397 sexual offences were recorded by police in England and Wales, an increase of 25% compared with the previous year. Of these offences, 51,833 related to rape, and 93,564 accounted for other sexual offences.⁶³ Women are estimated to account for 95% of all rape victims,⁶⁴ and are five times more likely than men to experience sexual assault.⁶⁵

Many VAWG crimes go unreported. The charity Rape Crisis England & Wales estimates that only around 15% of survivors of sexual violence report their experience to the police.⁶⁶ In addition, an inspection of reporting and recording in

⁶³ ONS (2018). Sexual offences in England and Wales: year ending December 2017. Available at: <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/crimeinenglandandwales/yearendingdecember2017#toc> [accessed: 18 May 2018].

⁶⁴ ONS (2018). Sexual offences in England and Wales: year ending March 2017 - Appendix Tables. Available at: <https://www.ons.gov.uk/file?uri=/peoplepopulationandcommunity/crimeandjustice/datasets/sexualoffencesappendixtables/yearendingmarch2017/sexualoffencesappendixtablesmarch2017.xls> [accessed: 29 April 2018].

⁶⁵ ONS (2017). 'Compendium: Domestic abuse, sexual assault and stalking'. Available at: <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/compendium/focusonviolentcrimeandsexualoffences/yearendingmarch2016/domesticabusesexualassaultandstalking> [accessed: 29 April 2018].

⁶⁶ See Rape Crisis England & Wales, available at: <https://rapecrisis.org.uk/statistics.php> [accessed: 16 January 2018].

2014 found that, in England and Wales, a quarter of sexual offences that were reported and should have been recorded as crimes were not.⁶⁷

Many of the reported offences do not then proceed to prosecution. The number of Crown Prosecution Service (CPS) prosecutions completed in 2016/7 for sexual offences (excluding rape) was 13,490. More than half of the victims were aged under 24 years, and nearly one in five was aged between 14 and 17.⁶⁸ Of the 5,190 rape cases the CPS took on in 2016/7, 45% were against child victims. Of this total, 2,991 cases resulted in conviction.⁶⁹ Although this was the highest volume of cases ever convicted, it still accounts for only a fraction of the recorded incidents.⁷⁰

A number of steps have been taken by criminal justice agencies to improve investigations and conviction rates:

- A joint CPS and police action plan on rape was published in 2014, which identified a need to balance offender-focused investigations with effective responses to victims.⁷¹
- In 2015, the CPS published a toolkit for prosecutors handling VAWG cases involving vulnerable victims.⁷²
- The CPS published legal guidance and a toolkit to challenge assumptions around consent.^{73 74}

⁶⁷ Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services. 2014. *Crime-recording: making the victim count*. [ONLINE]. Available at: <https://www.justiceinspectors.gov.uk/hmic/wp-content/uploads/crime-recording-making-the-victim-count.pdf> [accessed: 29 April 2018].

⁶⁸ Crown Prosecution Service. 2017. *Violence against women and girls report. Tenth edition 2016-17*. [ONLINE]. Available at: <https://www.cps.gov.uk/publication/cps-violence-against-women-and-girls-crime-report-2016-2017> [accessed: 2018].

⁶⁹ The conviction rate remained steady at 57.6%.

⁷⁰ Rape incidents and crime data for England and Wales 2016-17. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/653120/prc-rape-incidents-march2017.ods [accessed: 16 January 2018].

⁷¹ Equality and Human Rights Commission. 2015. *Is Britain Fairer? Evidence Paper Series. Domain D: Legal security* [ONLINE]. Available at: <http://webarchive.nationalarchives.gov.uk/20170804152306/https://www.equalityhumanrights.com/en/britain-fairer/britain-fairer-report/supporting-evidence/legal-security-domain> [accessed 29 April 2018].

⁷² Crown Prosecution Service. 2015. *Toolkit for prosecutors on violence against women and girls cases involving a vulnerable victim*. [ONLINE]. Available at: https://www.cps.gov.uk/sites/default/files/documents/publications/toolkit_for_prosecutors_on_vawg_cases_involving_vulnerable_victims.pdf [accessed: 29 April 2018].

⁷³ Crown Prosecution Service. 'Rape and sexual offences. Chapter 3: Consent'. Available at: <https://www.cps.gov.uk/legal-guidance/rape-and-sexual-offences-chapter-3-consent> [accessed: 5 December 2017].

⁷⁴ Crown Prosecution Service. 'What is consent?' Available at: https://www.cps.gov.uk/sites/default/files/documents/publications/what_is_consent_v2.pdf [accessed: 5 December 2017].

- In 2015, the CPS and police set up a joint National Rape Steering Group for England and Wales to improve the quality of investigations and case preparation.⁷⁵

However, challenges remain. A review of rape investigations and prosecutions in London⁷⁶ expressed concerns that referral rates to sexual assault referral centres in London were not reflecting increased reporting rates to the police. The report underlined the need for long-term funding for independent sexual violence advisers⁷⁷ in London.⁷⁸

In 2016, the HM Crown Prosecution Service Inspectorate (HMCPsi) undertook a review of CPS rape and serious sexual offences units.⁷⁹ HMCPsi reported that the CPS had delivered considerable work to improve rape prosecution outcomes. The review concluded that existing policy and legal guidance is sufficient, but that, crucially, compliance needs to improve.

Some groups are disproportionately subjected to sexual violence. These include women and girls with learning disabilities, mental health issues, and drug/alcohol dependency, and those facing homelessness.⁸⁰ A visit by the former UN Special Rapporteur on violence against women, its causes and consequences (SR VAW) reported that young girls linked to gangs can also be vulnerable to rape, and highlighted that women from some Black and ethnic minority groups may face further

⁷⁵ Crown Prosecution Service. 2016. *Response to HMCPsi thematic review of RASSO units*. [ONLINE]. Available at:

https://www.cps.gov.uk/sites/default/files/documents/publications/response_to_hmcpsi_thematic_review_of_rasso_units_2016.pdf [accessed: 5 December 2017].

⁷⁶ Angiolini, E. (2015). 'The report of the Independent Review into The Investigation and Prosecution of Rape in London by the Rt Hon Dame Elish Angiolini DBE QC, April 2015'. Available at: <https://www.cps.gov.uk/publication/report-independent-review-investigation-and-prosecution-rape-london-rt-hon-dame-elish> [accessed: 29 April 2018].

⁷⁷ An independent sexual violence adviser (ISVA) is an adviser who works with people who have experienced rape and sexual assault, irrespective of whether they have reported this to the police. Further information: Home Office (2017), 'The role of the independent sexual violence adviser: essential elements'. Available at: <https://www.gov.uk/government/publications/the-role-of-the-independent-sexual-violence-adviser-isva> [accessed: 29 April 2018].

⁷⁸ Concerns were raised in the press in 2017 about upcoming changes to funding for ISVAs nationally. In the following *Express* article, voluntary bodies set out the importance of these roles and the current gaps and risks to funding. Available at: <https://www.express.co.uk/news/uk/775016/Rape-victims-lose-support-lack-funding-Broadchurch> [accessed: 29 April 2018].

⁷⁹ HM Crown Prosecution Service Inspectorate. 2016. *Thematic review of the CPS rape and serious sexual offences units*. [ONLINE]. Available at: https://www.justiceinspectors.gov.uk/hmcpsi/wp-content/uploads/sites/3/2016/02/RASSO_thm_Feb16_rpt.pdf [accessed: 29 April 2018].

⁸⁰ Home Office. 2016. *Violence Against Women and Girls: National Statement of Expectations*.

consequences of sexual violence, such as family or community shame, stigmatisation and rejection.⁸¹

Voluntary sector organisations play a vital role in the provision of counselling and support services. Despite this, they remain underfunded. A 2014 survey identified that less than half of rape crisis centres had received substantial funding from health or health-commissioned services.⁸² Sexual violence services in Wales have experienced a significant reduction in funding levels between 2016/7 and 2017/8, while demand has continued to increase.⁸³

Recommendations

The EHRC recommends that the UK and Welsh governments should:

- ensure that recent guidance on sexual violence and consent is promoted widely and implemented effectively within the criminal justice system, to enable police forces to take a victim-centred approach and to prioritise this issue, and
- take steps to improve the reporting and recording of sexual violence crimes, and increase prosecution and conviction rates.

The EHRC recommends that the UK Government should:

- ensure that victims receive appropriate support, and that all support services have sufficient and secure funding on a long-term basis, including those that provide specialist services to Black and ethnic minority women, women with learning difficulties and women with complex needs.

⁸¹ Office of the High Commissioner for Human Rights. 2015. *Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo: Mission to the United Kingdom of Great Britain and Northern Ireland*. [ONLINE]. Available at: <http://www.ohchr.org/Documents/Issues/Women/SR/A.HRC.29.27.Add.2.pdf> [accessed: 29 April 2018].

⁸² Women's Health and Equality Consortium. 2017. *Taking a forward view on women and mental health: key messages for Government*. [ONLINE]. Available at: https://rapecrisis.org.uk/pdfs/0311_2017---taking-a-forward-view-on-women-and-mental-health.pdf [accessed: 29 April 2018].

⁸³ Welsh Women's Aid. 2017. *State of the sector report 2017*. [ONLINE]. Available at: <http://www.welshwomensaid.org.uk/2017/12/welsh-womens-aid-state-sector-report-2017/> [accessed: 16 February 2018].

Domestic violence, abuse and femicide

Statistics show that an estimated 1.9m adults in England and Wales aged 16 to 59 years experienced domestic abuse during the year ending March 2017.⁸⁴ Of these, 1.2m were women and 0.7m were men. Women were also more likely than men to have experienced multiple forms of abuse, highlighting the gendered nature of these crimes.⁸⁵ HM Inspector of Constabulary (HMIC) – now Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) – has reported that on average the police receive 100 calls about domestic abuse every hour.⁸⁶ A more recent report highlighted that some forces struggle to cope with demand, even in cases of emergencies.⁸⁷

Many women under-report domestic abuse in surveys, particularly during face-to-face interviews.⁸⁸ ⁸⁹ The Office for National Statistics (ONS) estimated that four in five (79%) survivors did not report partner abuse to the police.⁹⁰ The CPS reported that 83% of its VAWG caseload in 2016/7 related to domestic abuse in England and Wales. During this period, 70,853 abuse cases led to convictions, a fall of 4,382 convictions compared to the previous year. Police referrals fell by 6%.⁹¹

The most recent Femicide Census – a database containing information of women killed by men, compiled by Women's Aid in partnership with campaigner Karen

⁸⁴ ONS 'Statistical bulletin. Domestic abuse in England and Wales: year ending March 2017'. Available at:

<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/crimeinenglandandwales/june2017> [accessed: 20 May 2018].

⁸⁵ ONS 'Statistical bulletin. Domestic abuse in England and Wales: year ending March 2017 – appendix tables'. Available at:

<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/domesticabuseinenglandandwalesappendixtables> [accessed: 19 May 2018].

⁸⁶ HMIC (2015), 'Increasingly everyone's business: A progress report on the police response to domestic abuse.' Available at:

<https://www.justiceinspectorates.gov.uk/hmicfrs/publications/increasingly-everyones-business-a-progress-report-on-the-police-response-to-domestic-abuse/> [accessed: 29 May 2018].

⁸⁷ HMICFRS (2018), 'PEEL: Police effectiveness 2017. A national overview'. Available at:

<https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/peel-police-effectiveness-2017-1.pdf> [accessed: 29 April 2018].

⁸⁸ Ibid.

⁸⁹ The Crime Survey for England and Wales doesn't yet capture the new domestic violence offence of coercive and controlling behaviour. Available at:

<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/compendium/focusonviolentcrimeandsexualoffences/yearendingmarch2016/domesticabusesexualassaultandstalking> [accessed: 19 May 2018].

⁹⁰ Partner abuse is defined as any non-physical abuse, threats, force, sexual assault or stalking where the perpetrator is a partner or ex-partner. Available at:

<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/compendium/focusonviolentcrimeandsexualoffences/yearendingmarch2016/domesticabusesexualassaultandstalking> [accessed: 19 May 2018].

⁹¹ Violence against women and girls report, tenth edition. Crown Prosecution Service. October 2017.

Ingala Smith – found that in 2016, 113 women were killed by men in England and Wales (and this is likely to be an underestimate). The vast majority (90%) of these women were killed by someone they knew, and 69% by their current or former intimate partner.⁹² Despite these vital statistics, data collection on femicide still needs to be improved.

According to Sisters for Change, Black and ethnic minority and migrant women in England experience higher rates of domestic homicide and 50% of Black and ethnic minority survivors were abused by multiple perpetrators.⁹³ Disabled women experience disproportionate levels of all forms of violence and abuse from carers, partners and those in the community,⁹⁴ and face additional barriers to accessing appropriate support.⁹⁵ A new report estimates that less than 2% of refuge spaces in England have wheelchair access.⁹⁶

Agenda⁹⁷ has reported that women survivors⁹⁷ of violence in England are more likely to face poor mental and physical health, disability, substance misuse, poverty, debt, poor housing and homelessness.⁹⁸

There have been numerous policy developments in England and Wales since 2013. In March 2014, domestic violence protection orders were rolled out across England

⁹² Women's Aid in partnership with Karen Ingala Smith, 'The Femicide Census: 2016 findings – annual report on cases of femicide in 2016'. Available at: <https://1q7dqy2unor827bqjls0c4rn-wpengine.netdna-ssl.com/wp-content/uploads/2017/12/The-Femicide-Census-Report-published-2017.pdf> [accessed: 29 April 2018].

⁹³ Sisters for Change. 2017. Unequal regard, unequal protection. Public authority responses to violence against BME women in England. [ONLINE]. Available at: <http://sistersforchange.org.uk/unequal-regard-unequal-protection/> [accessed: 29 April 2018].

⁹⁴ Equality and Human Rights Commission (2017). 'Disability rights UK Independent Mechanism Submission to inform the CRPD List of Issues on the UK', p.46. Available at:

https://www.equalityhumanrights.com/sites/default/files/united_kingdom_main_submission_to_crpd_u_k_loi_-_ukim13march.pdf [accessed: 29 April 2018].

⁹⁵ Specialised services for disabled women that provide accessible support are sparse. See: Woodin and Shah (May 2013), National Empirical Report UK: Access to specialised victim support services for women with disabilities who have experienced violence, available at: <http://women-disabilities-violence.humanrights.at/countries/united-kingdom> [accessed: 29 April 2018]; Women's Aid annual survey, available at: <https://www.womensaid.org.uk/womens-aid-releases-annual-survey-2015-statistics/> [accessed: 29 April 2018], and Harvey, S., Mandair, S. and Holly, J (2013), 'Case by case: refuge provision in London for survivors of domestic violence who use alcohol and other drugs or have mental health problems'. London: AVA and Solace Women's Aid, available at: <https://avaproject.org.uk/wp-content/uploads/2016/03/Case-by-Case-London-refuge-provision-Full-Report.pdf> [accessed: 29 April 2018].

⁹⁶ Women's Aid. 2018. *Survival and beyond: the domestic abuse report 2017*. [ONLINE]. Available at: <https://1q7dqy2unor827bqjls0c4rn-wpengine.netdna-ssl.com/wp-content/uploads/2018/03/Survival-and-Beyond.pdf> [accessed: 29 April 2018].

⁹⁷ Agenda is an alliance of organisations and individuals that have come together to campaign for women and girls at risk.

⁹⁸ Agenda 2017. *Hidden hurt: violence, abuse and disadvantage in the lives of women*. [ONLINE]. Available at: <https://weareagenda.org/wp-content/uploads/2015/11/Hidden-Hurt-full-report1.pdf> [accessed: 29 April 2018].

and Wales.⁹⁹ Their purpose is to provide urgent protection for victims by filling a gap in existing safeguards following domestic incidents.¹⁰⁰

In December 2015, a new offence of 'controlling or coercive behaviour in an intimate or family relationship' came into force.¹⁰¹ Women's Aid welcomed this move, as its research showed that 73.1% of refuge residents and 42.9% of community service users reported experiencing coercive control.¹⁰² The CPS reported that 309 alleged offenders were charged in 2016/7.¹⁰³ However, disabled women's rights organisation Sisters of Frida raised concerns around this offence with the Committee on the Rights of Persons with Disabilities, as it includes a defence that the alleged perpetrator believed they were acting in the person's 'best interests' and the behaviour was reasonable in the circumstances.¹⁰⁴ ¹⁰⁵ Once the defence is raised, the burden falls on a victim to disprove it 'beyond reasonable doubt'. The defence was introduced to protect carers who are partners or family members, but the concern is that it may weaken protection for disabled women who are at heightened risk of violence, exploitation and abuse, including from carers.¹⁰⁶

The UK Government announced in June 2017 that it would introduce a Domestic Abuse Bill for England and Wales, and in March 2018 it launched a consultation on

⁹⁹ Home Office. 2016. *Domestic violence protection orders*. [ONLINE].

Available at: <https://www.gov.uk/government/publications/domestic-violence-protection-orders> [accessed: 16 January 2018].

¹⁰⁰ They immediately ban perpetrators from residences and from contacting victims for up to 28 days. The domestic violence disclosure scheme (DVDS) was also rolled out at this time. This enables individuals to ask the police whether a new or existing partner has a violent past (the 'right to ask'). Home Office (2016), 'Domestic violence disclosure scheme (DVDS) guidance'. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/575361/DVDS_guidance_FINAL_v3.pdf [accessed: 29 April 2018].

¹⁰¹ Section 76 of the Serious Crime Act 2015. This is defined as: 'Any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members, regardless of gender or sexuality. This can encompass, but is not limited to, the following types of abuse: psychological, physical, sexual, financial and emotional.' A person convicted of this offence can face a fine and up to five years in prison. 'Domestic abuse guidelines for prosecutors', Crown Prosecution Service.

¹⁰² Women's Aid, 'Annual survey 2016'. Available at: <https://1q7dqy2unor827bjls0c4rn-wpengine.netdna-ssl.com/wp-content/uploads/2017/03/Annual-Survey-2016.pdf> [accessed: 20 May 2018].

¹⁰³ 'Violence against women and girls report, tenth edition. 2016-17'. Crown Prosecution Service.

¹⁰⁴ Sisters of Frida (2017), 'Shadow report from Sisters of Frida on the UK initial report on the UN Convention on the Rights of Persons with Disabilities'. Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCRPD%2fICO%2fGBR%2f27538&Lang=en [accessed: 29 April 2018].

¹⁰⁵ The defence is set out at sub-sections 76(8)-(10) of the Serious Crime Act 2015. Available at: <http://www.legislation.gov.uk/ukpga/2015/9/contents/enacted> [accessed: 29 March 2018].

¹⁰⁶ Committee on the Rights of Persons with Disabilities, 'General comment no.3 (2016) on women and girls with disabilities', paras. 29 and 31. Available at: <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/GC.aspx> [accessed: 29 April 2018].

'Transforming the response to domestic abuse'.¹⁰⁷ Among other things, the Bill is expected to: create a Domestic Violence and Abuse Commissioner; simplify existing legislation; and create a statutory definition for domestic violence.^{108 109}

In October 2017, guidance came into force for all judges considering proceedings involving children affected by domestic abuse.¹¹⁰ Women's Aid has previously highlighted that in domestic abuse cases, the presumption of contact with both parents often overrides concerns about children's safety and wellbeing,¹¹¹ and has published evidence that 19 children in England and Wales were killed by their fathers between 2005 and 2015.¹¹² All of the fathers were known to the police as perpetrators of domestic abuse, yet contact for 12 of these children was approved by the courts.

The Welsh Government's Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015¹¹³ aims to improve the public sector's response to the issue, building on the Welsh Government's six-year strategy, 'The right to be safe'.¹¹⁴ Among other things, it allows Welsh Ministers to place a duty on local authorities to report on how they are addressing violence against women, domestic abuse and sexual violence within their educational institutions. It also places a requirement on the Welsh Ministers to publish annual indicators to measure progress towards the aims of the Act, and gives them the power to issue statutory guidance that must be followed (apart from in specified circumstances). The Act requires

¹⁰⁷ Home Office and Ministry of Justice. 2018. *Transforming the response to domestic abuse: government consultation*. [ONLINE]. Available at: https://consult.justice.gov.uk/homeoffice-moj/domestic-abuse-consultation/supporting_documents/Transforming%20the%20response%20to%20domestic%20abuse.pdf [accessed: 29 April 2018].

¹⁰⁸ A cross-Government definition of domestic violence was introduced in guidance in 2013. It included: coercive behaviour; 'honour'-based violence; female genital mutilation (FGM); and forced marriage, as well as a recognition of 16 and 17-year-olds as victims.

¹⁰⁹ See our response to the consultation at: <https://www.equalityhumanrights.com/sites/default/files/consultation-response-transforming-response-to-domestic-abuse-may-2018.pdf> [accessed: 1 June 2018].

¹¹⁰ Courts and Tribunals Judiciary. 2017. *President of Family Division circular: Practice direction PD12J – domestic abuse*. [ONLINE]. Available at: <https://www.judiciary.gov.uk/publications/president-of-family-division-circular-practice-direction-pd12j-domestic-abuse/> [accessed: 29 April 2018].

¹¹¹ As introduced by section 11 of the Children and Families Act 2014. See: <http://www.legislation.gov.uk/ukpga/2014/6/contents/enacted>

¹¹² Women's Aid. 2016. *Press release: Women's Aid launches Nineteen child homicides report and Child First campaign*. [ONLINE]. Available at: <https://www.womensaid.org.uk/launch-of-nineteen-child-homicides-report-child-first-campaign/> [accessed: 29 April 2018].

¹¹³ Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015. Available at: <https://www.legislation.gov.uk/anaw/2015/3/contents> [accessed: 19 January 2018].

¹¹⁴ Welsh Government. 2010 'The Right to be safe'. Available at: <http://gov.wales/topics/people-and-communities/communities/safety/domesticabuse/publications/besafe/?lang=en> [accessed: 19 January 2018].

Welsh Ministers to appoint a national adviser to monitor the implementation of the Act and undertake research.¹¹⁵

Post-legislative scrutiny of the Act, however, has raised concerns over the pace and consistency of its implementation, and the delay in producing a delivery strategy with detailed actions and timescales.¹¹⁶

Support for survivors

Refuge spaces are still nowhere near the required levels, and 94 women and 90 children were turned away from refuge services in England on just one day in 2017, primarily due to lack of space.¹¹⁷ In order for a woman to be able to access a refuge space, it must be available when and where she needs it, and have sufficient room for her children.¹¹⁸ Women's Aid has stated that 1,695 more refuge spaces are needed in England alone to meet the minimum levels recommended by the Council of Europe.¹¹⁹

Women may face barriers in accessing a refuge if they have substance use support needs. Research has shown that just 10% of refuges had an alcohol or drug support worker, and less than one in four could offer specialist mental health support.

Women with several children, and those with older male children, may also struggle to get a refuge space.¹²⁰ National charity Friends, Families and Travellers has found through its advice work that these types of restrictions can be a particular barrier for Gypsy and Traveller women, who may have larger families.¹²¹

Refuges often face restrictions in who they can admit, such as being unable to accept women outside their locality. This is a significant problem, as around three-quarters of women cross local authority boundaries to access a refuge.¹²² Women's

¹¹⁵ A national adviser was appointed in 2015, but resigned in 2017. Two new advisers were appointed in January 2018 to support implementation of the Act.

¹¹⁶ Equality, Local Government and Communities Committee. 2016. *Is the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015 working?* [ONLINE]. Available at: <http://www.assembly.wales/laid%20documents/cr-ld10863/cr-ld10863%20-%20e.pdf> [accessed: 19 January 2018].

¹¹⁷ Women's Aid. 2017. 'Leave no woman or child behind': Women's Aid launches 16 Days campaign. [ONLINE]. Available at: <https://www.womensaid.org.uk/leave-no-woman-child-behind-womens-aid-launches-16-days-campaign/> [accessed: 30 April 2018].

¹¹⁸ Women's Aid (2017), 'Nowhere to turn. Findings from the first year of the No Woman Turned Away project'. Available at: <https://www.womensaid.org.uk/research-and-publications/nowomanturnedaway/> [accessed: 29 April 2018].

¹¹⁹ Women's Aid (2018). *Survival and beyond: The Domestic Abuse Report 2017*.

¹²⁰ Ibid.

¹²¹ See: <https://www.gypsy-traveller.org/> [accessed: 29 April 2018].

¹²² Women's Aid. 2017. *Meeting the needs of women and children: findings of the Women's Aid annual survey 2016*. [ONLINE]. Available at: <https://www.womensaid.org.uk/research-and-publications/annual-survey-2016/> [accessed: 29 April 2018].

Aid said in a 2017 news report that 'councils can be reluctant to spend cash on those from other counties'. It added that 'the majority of women in refuges come from outside the authority, with some travelling hundreds of miles from the far reaches of England and Wales, for security reasons'.¹²³

A Welsh Women's Aid report on the state of the sector revealed that 11,512 women, men, children and young people were provided with refuge and/or community-based support services in 2015/6. In the same year, 388 survivors of domestic abuse could not be accommodated because there was no space. Meanwhile, 46% of services received cuts and 92% of service providers stated that funding and service continuation were the main challenges facing their organisations.¹²⁴

A number of domestic violence support services have raised concerns about UK Government proposals to remove women's ability to pay for their refuge accommodation with housing benefit.¹²⁵ Women's Aid has reported that housing benefit payments account on average for 53% of refuge funding. This is set against a background of serious cuts in local government support. It was reported in 2017 that, in response to budget cuts, council funding for refuges in England dropped from £31.2m in 2010/1 to £23.9m in 2016/7.¹²⁶ The UK Government has committed to 'reviewing funding for domestic abuse services, including refuges', by summer 2018.¹²⁷

The 2015 All-Party Parliamentary Group on Domestic and Sexual Violence inquiry stated that 'the current model for funding specialist domestic and sexual violence services is not fit for purpose'.¹²⁸ The inquiry also reported that funding cuts by

¹²³ *The Guardian*. 'Women's lives at risk from changes to funding for refuges, say charities'. 26 November 2017. Available at: <https://www.theguardian.com/society/2017/nov/26/womens-lives-at-risk-funding-changes-refuges-charities> [accessed: 20 May 2018].

¹²⁴ Welsh Women's Aid (2016), 'Saving services to save lives: report on the state of the specialist domestic abuse sector in Wales 2016'. Available at: <http://www.welshwomensaid.org.uk/wp-content/uploads/2018/02/State-of-the-sector-report-2016-FINAL.pdf> [accessed: 22 January 2018].

¹²⁵ Ministry of Housing, Communities & Local Government and Department for Work and Pensions. 2017. *Funding for supported housing – two consultations*. [ONLINE]. Available at: <https://www.gov.uk/government/consultations/funding-for-supported-housing-two-consultations> [accessed: 29 April 2018].

¹²⁶ The Bureau of Investigative Journalism. 2017. *Revealed: Thousands of vulnerable women turned away as refuge funding is cut*. [ONLINE]. Available at: <https://www.thebureauinvestigates.com/stories/2017-10-16/a-system-at-breaking-point> [accessed: 29 April 2018].

¹²⁷ Home Office and Ministry of Justice. 'Transforming the response to domestic abuse: government consultation'. Available at: https://consult.justice.gov.uk/homeoffice-moj/domestic-abuse-consultation/supporting_documents/Transforming%20the%20response%20to%20domestic%20abuse.pdf [accessed: 29 April 2018].

¹²⁸ All Party Parliamentary Group on Domestic and Sexual Violence, Women's Aid, Rape Crisis England & Wales (2015), 'The changing landscape of domestic and sexual violence services: All-Party Parliamentary Group on Domestic and Sexual Violence inquiry'. Available at: <https://www.womensaid.org.uk/appg-reports/> [accessed: 29 April 2018].

statutory agencies to violence against women services have had a disproportionate impact on Black and ethnic minority led VAWG organisations. Witnesses to the inquiry stated that in some areas Black and ethnic minority women's organisations had lost over 40% of their refuge funding. In other areas, the local authority had cut these services by removing specialist Black and ethnic minority led provision from their contracts.¹²⁹ Sisters for Change reported that the nature of the support needs of Black and ethnic minority women are different from than those of other women.¹³⁰ There is also limited provision for Black and ethnic minority women outside London.¹³¹

The Special Rapporteur on violence against women (SR VAW) identified negative changes to the provision of support services, including: open tendering; short-term commissioning of gender-neutral services; and the participation of sectors without relevant expertise. Women's support services must now devote more time to fundraising and reporting. Due to reduced funding, they have had to cut services, such as by closing refuges, reducing support hours, or increasing waiting lists.¹³² The Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015 places more responsibility on public authorities to identify survivors and refer them to specialist services. The 'Ask and Act' model encourages public sector professionals to 'ask' potential victims in certain circumstances, and 'act' to reduce harm.¹³³

Recommendations

The EHRC recommends that the UK and Welsh governments should:

- improve the reporting and recording of domestic violence and abuse, and increase prosecution and conviction rates
- ensure that domestic violence services are adequately funded and supported to address all forms of abuse, including the specialist needs of disabled women, Black and ethnic minority women, and those with complex needs

¹²⁹ All Party Parliamentary Group for Domestic and Sexual Violence, Women's Aid, Rape Crisis England & Wales (2015). 'The changing landscape of domestic and sexual violence services: All-Party Parliamentary Group on Domestic and Sexual Violence inquiry'.

¹³⁰ Sisters for Change (2017), 'Unequal regard, unequal protection. Public authority responses to violence against BME women in England'.

¹³¹ Women's Aid (2017), 'Nowhere to turn: findings from the first year of the No Woman Turned Away project'.

¹³² Office of the High Commissioner for Human Rights (2015), 'Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo: Mission to the United Kingdom of Great Britain and Northern Ireland'.

¹³³ See: <http://livefearfree.gov.wales/policies-and-guidance/ask-and-act?lang=en> [accessed: 31 May 2018].

- work with local authorities to collect and monitor data about the number of spaces needed in refuges, develop a sustainable and accountable funding model for refuges and domestic abuse services, and withdraw proposed changes to housing benefit that would remove women's ability to use it to pay for refuge accommodation, and
- support the collection of data on femicide, and ensure that national homicide data reflects the gendered nature of crimes by collecting data on the sex and age of the perpetrator and victim, their relationship and previous domestic abuse convictions, and by disaggregating this data across police force areas.

The EHRC recommends that the Welsh Government should:

- address the Local Government and Communities Committee's concerns around the pace and consistency of implementing the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act, and implement its recommendations.

Harmful practices

VAWG can take many forms, including those commonly termed 'harmful practices' by virtue of certain characteristics they possess. 'Harmful practices' have been defined as those that: deny individual integrity to victims; discriminate against women or children, cause physical, psychological or other harm to them, and limit their capacity to participate in society or reach their potential; are imposed by family, community members or society at large, irrespective of individual consent; and are regarded or presented as part of accepted cultural practice.¹³⁴ The practices addressed on the following pages can be understood within this broader framework.

In order to ensure an adequate State response, public sector professionals and statutory agencies across a range of sectors need to understand the nature of harmful practices, how to identify them and how best to safely and effectively support survivors. This applies to health, social care and education as well as criminal justice.

¹³⁴ Joint general recommendation No 31 of the Committee on the Elimination of Discrimination against Women / General comment No 18 of the Committee on the Rights of the Child on harmful practices (2014), cited in European Parliament (November 2016), 'Briefing: 'Harmful practices' as a form of violence against women and girls'. Available at: [http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/593556/EPRS_BRI\(2016\)593556_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/593556/EPRS_BRI(2016)593556_EN.pdf) [accessed: 19 January 2018].

In a 2015 report¹³⁵ on the effectiveness of police responses to so-called 'honour-based' violence (HBV), HMIC¹³⁶ drew attention to the key characteristics of HBV, which it is vital to understand for appropriate prevention and response.¹³⁷ HBV can involve various crimes, such as abduction, rape and harassment, and even murder at the most extreme.¹³⁸

The report found that many police forces across England and Wales are not sufficiently prepared to protect HBV victims, and should improve engagement with community groups to increase understanding of these crimes.¹³⁹ More recently, a 2017 Freedom of Information request by IKWRO (originally founded as the Iranian and Kurdish Women's Rights Organisation) revealed that reports of HBV to police forces in the UK have increased by 53% since 2014, without a correlating increase in referrals to the CPS.¹⁴⁰ The volume of prosecutions completed fell from 182 in 2015/6 to 171 in 2016/7. Of the 171 defendants prosecuted, 147 defendants were

¹³⁵ HMIC (2015), 'The depths of dishonour: Hidden voices and shameful crimes. An inspection of the policy response to honour-based violence, forced marriage and female genital mutilation', p. 29. Available at: <https://www.justiceinspectrates.gov.uk/hmicfrs/wp-content/uploads/the-depths-of-dishonour.pdf> [accessed: 29 November 2017].

¹³⁶ HMIC is now known as Her Majesty's Inspectorate of Constabulary and Fire & Rescue Service (HMICFRS). HMICFRS independently assesses and reports on the efficiency and effectiveness of police forces and policing in England and Wales in the public interest. See: <https://www.justiceinspectrates.gov.uk/hmicfrs/about-us/>

¹³⁷ Key characteristics of HBV include:

- Its occurrence has been recorded across a range of cultures, religions and societies.
- It is committed in a familial or similar social context and rooted in a patriarchal social system where power is vested in the males of a family or community.
- It is a hidden form of violence, as it is largely perpetrated by the family or community of the victim, and can involve multiple perpetrators, and sometimes collusion from the wider community, heightening the danger for victims.
- It can involve various crimes in the name of preserving the family's honour, such as blackmail, surveillance, harassment, rape, forced suicide, abduction, female genital mutilation, forced marriage and, in its extremist form, murder.
- It can overlap with domestic abuse, child abuse and other types of crimes, as well as with human trafficking and modern slavery.

HMIC (2015), 'The depths of dishonour: Hidden voices and shameful crimes. An inspection of the policy response to honour-based violence, forced marriage and female genital mutilation', pp. 169-83. Available at: <https://www.justiceinspectrates.gov.uk/hmicfrs/wp-content/uploads/the-depths-of-dishonour.pdf> [accessed: 29 November 2017].

¹³⁸ European Parliament (November 2016), 'Briefing: "Harmful practices" as a form of violence against women and girls'. Available at: [http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/593556/EPRS_BRI\(2016\)593556_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/593556/EPRS_BRI(2016)593556_EN.pdf) [accessed: 19 January 2018].

¹³⁹ HMIC (2015), 'The depths of dishonour: Hidden voices and shameful crimes. An inspection of the policy response to honour-based violence, forced marriage and female genital mutilation', chapter 6. Available at: <https://www.justiceinspectrates.gov.uk/hmicfrs/wp-content/uploads/the-depths-of-dishonour.pdf> [accessed: 29 November 2017].

¹⁴⁰ IKWRO. 2017. *Press release: 53% rise in "honour" based violence cases reported to the police since the criminalisation of forced marriage*. [ONLINE]. Available at: <http://ikwro.org.uk/2017/11/violence-criminalisation-marriage/> [accessed: 29 April 2018].

male (86%) and 23 defendants were female (13.5%), with the gender of one defendant not recorded.¹⁴¹

The current legal framework also acts as a hindrance to effective protection from, and prosecution of, HBV. It does not cover the full range of risks faced by HBV victims, there are no specific provisions to protect victims, and nor do the sentencing guidelines for the general criminal offences used to prosecute HBV reflect the particular nature of these crimes.¹⁴²

Recommendations

The EHRC recommends that the UK Government should:

- act urgently on all outstanding recommendations of the 2015 Her Majesty's Inspectorate of Constabulary report on police responses to so-called 'honour-based' violence.

The EHRC recommends that the UK and Welsh governments should:

- ensure that all relevant public sector professionals receive mandatory training in how to identify and support women and girls affected by harmful practices.

Female genital mutilation

Female genital mutilation (FGM)¹⁴³ is a harmful practice, and recognised as a form of HBV. It is also a form of gender-based violence that violates women and girls' rights in relation to autonomy and bodily integrity.¹⁴⁴ It presents a serious risk to the

¹⁴¹ Crown Prosecution Service 2017. Available at: <https://www.cps.gov.uk/publication/cps-violence-against-women-and-girls-crime-report-2016-2017> [accessed: 6 June 2018]

¹⁴² HMIC (2015), 'The depths of dishonour: Hidden voices and shameful crimes. An inspection of the policy response to honour-based violence, forced marriage and female genital mutilation', p. 124 Available at: <https://www.justiceinspectors.gov.uk/hmicfrs/wp-content/uploads/the-depths-of-dishonour.pdf> [accessed: 29 November 2017].

¹⁴³ FGM is defined by the World Health Organization (WHO) as any procedure that involves 'the partial or total removal of the external female genitalia or other injury to the female genital organs for non-medical reasons'. See: WHO (February 2014), 'Female genital mutilation, factsheet No. 241'. Available at: <http://www.who.int/mediacentre/factsheets/fs241/en/> [accessed: 22 November 2017].

¹⁴⁴ The gendered nature of FGM is laid out clearly in: Imkaan & Rights of Women (2016), 'Strengthening responses to forced marriage and female genital mutilation – good practice briefing'. London: Ascent. Available at: <http://t.umblr.com/redirect?z=https%3A%2F%2Fgoo.gl%2FQujEGQ&t=YjNjMDZhYTg3ZDM2ODk2NDNjNm5NzE4NzNmWnTE1NzljZmFjNmIzYyxUbU4zdWpESg%3D%3D&p=&m=0> [accessed: 22 November 2017].

health and life of women and girls,¹⁴⁵ can amount to torture under international law and is a form of child abuse when performed on girls.¹⁴⁶

Accurately measuring the prevalence of FGM in the UK is an important step towards allocating appropriate resources and tackling it effectively.¹⁴⁷ However, it is unclear exactly how many girls and women in the UK are affected by, or at risk of, FGM. A 2011 study estimated that 137,000 women and girls in England and Wales were affected by FGM.¹⁴⁸ The Parliamentary Home Affairs Committee recommended in 2016 that the Home Office identifies 'a more reliable methodology for measuring the number of girls at risk of undergoing FGM in the UK'.¹⁴⁹ For example, it is mandatory for all clinicians in England to record information about FGM in a patient's healthcare record,^{150 151} however evidence suggests this is not being accurately or

¹⁴⁵ The short-term impacts of FGM include intense pain, excessive bleeding and urinary problems, and can result in death as well as multiple long-term impacts, including difficulties with menstruation and childbirth, sexual problems and psychological trauma. See: WHO (February 2014), 'Female genital mutilation, factsheet no. 241'. Available at:

<http://www.who.int/mediacentre/factsheets/fs241/en/> [accessed: 29 November 2017].

¹⁴⁶ For more details about the legal framework see: EHRM (2014), 'Response of the Equality and Human Rights Commission to the Home Affairs Select Committee Inquiry on Female Genital Mutilation'. Available at: <http://www.equalityhumanrights.com/legal-and-policy/our-legal-work/parliamentary-briefings/submission-home-affairs-select-committee-inquiry-female-genital-mutilation> [accessed: 29 November 2017].

¹⁴⁷ House of Commons Home Affairs Committee (2016), 'Female genital mutilation: abuse unchecked', para 17. Available at: <https://publications.parliament.uk/pa/cm201617/cmselect/cmhaff/390/390.pdf> [accessed: 24 November 2017].

¹⁴⁸ Macfarlane, A. (2015), 'Prevalence of female genital mutilation in England and Wales: national and local estimates'. Available at: https://www.city.ac.uk/_data/assets/pdf_file/0004/282388/FGM-statistics-final-report-21-07-15-released-text.pdf [accessed: 29 April].

¹⁴⁹ The Committee recommended that the Home Office considers (i) engaging with affected women and families (for example, through anonymised surveys) for a more accurate approach; (ii) research into attitudes and motivations in relation to FGM, and awareness of the law prohibiting it; (iii) research into exactly where in practising countries women were subjected to FGM. See: House of Commons Home Affairs Committee (2016), 'Female genital mutilation: abuse unchecked', p. 8. Available at: <https://publications.parliament.uk/pa/cm201617/cmselect/cmhaff/390/390.pdf> [accessed: 24 November 2017].

¹⁵⁰ See: Home Office (2014), 'Female genital mutilation: resource pack'. Available at: <https://www.gov.uk/government/publications/female-genital-mutilation-resource-pack> [accessed: 12 January 2018]; and Department of Health (May 2016), 'Female genital mutilation and safeguarding: guidance for professionals', p 13. Available at: <https://www.gov.uk/government/publications/safeguarding-women-and-girls-at-risk-of-fgm> [accessed: 12 January 2018].

¹⁵¹ Note: the mandatory recording duty should be distinguished from the mandatory reporting duty in relation to FGM performed on girls under the age of 18, which is addressed in the next section. See: Hartley, H. (2015), *Clarifying the difference between mandatory recording and mandatory reporting of FGM*. Available at: <https://doi.org/10.1136/bmj.h6625> [accessed: 21 May 2018].

comprehensively implemented.¹⁵² In Wales, clinicians are required to follow the All Wales Clinical Pathway for recording and reporting FGM.¹⁵³

The UK Government has taken some positive steps in recent years to address FGM in England and Wales. These include establishing the UK Government's specialist FGM unit¹⁵⁴ and publishing multi-agency statutory guidance on FGM in April 2016.¹⁵⁵ The Welsh Government has rolled out FGM initiatives aimed at raising awareness, developing professional knowledge, and helping communities break down barriers.¹⁵⁶

The Serious Crime Act 2015 expanded and strengthened the legal framework for FGM (which applies slightly differently in different parts of the UK).¹⁵⁷ It: (i) introduced lifelong anonymity for FGM victims; (ii) created an offence of failing to

¹⁵² House of Commons Home Affairs Committee (2016), 'Female genital mutilation: abuse unchecked', pp 10-1. Available at: <https://publications.parliament.uk/pa/cm201617/cmselect/cmhaff/390/390.pdf> [accessed: 24 November 2017].

¹⁵³ 'All Wales Clinical Pathway'. Available at: <http://www.gpone.wales.nhs.uk/sitesplus/documents/1000/All%20Wales%20Clinical%20Pathway%20-%20FGM.pdf> [accessed: 29 April 2018].

¹⁵⁴ See HM Government (2015), 'A call to end violence against women and girls: progress report 2010-15', p. 34. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/409510/VAWG_Progress_Report_2010-2015.pdf [accessed: 25 November 2017].

¹⁵⁵ See: <https://www.gov.uk/government/publications/multi-agency-statutory-guidance-on-female-genital-mutilation> [accessed: 6 June 2018]. These guidelines replace the FGM: guidelines to protect children and women (2014).

¹⁵⁶ This has included funding an all-Wales service to provide specialist and holistic support to ethnic minority communities, which included providing training on the issue to frontline staff, as well as the production of an FGM toolkit for professionals and parents as a teaching aid. Available at: <https://gov.wales/about/cabinet/cabinetstatements/previous-administration/2013/fgm/?lang=en> [accessed: 8 June 2018].

¹⁵⁷ (i) Anonymity (s.71) – England, Wales and Northern Ireland

(ii) Failure to protect offence (s.72) – England, Wales and Northern Ireland

(iii) FGM protection orders (s.73) – England, Wales and Northern Ireland

(iv) Extended coverage of extra-territorial offences (s.70) – England, Wales, Northern Ireland and Scotland

(v) Duty to notify police (s.74) – England and Wales

See Serious Crime Act 2015. Available at:

<http://www.legislation.gov.uk/ukpga/2015/9/contents/enacted> [accessed: 6 June 2018]. The provisions came into force in 2015.

protect a girl from FGM,¹⁵⁸ (iii) introduced FGM protection orders;¹⁵⁹ (iv) extended the coverage of extra-territorial offences; and (v) introduced a mandatory reporting duty for known cases in girls under 18.¹⁶⁰

However, a number of significant issues remain:

- Preventing FGM requires joined-up working between different sectors, including health, education, social care and law enforcement, but greater collaboration is needed.¹⁶¹
- Community groups are recognised as central to efforts to prevent FGM and to provide support to victims, but they are often underfunded.¹⁶² It is unclear to what extent the UK Government's VAWG service transformation fund will support local community and specialist groups seeking to prevent FGM.¹⁶³

¹⁵⁸ This means that if an offence of FGM is committed against a girl under the age of 16, each person who is responsible for the girl at the time FGM occurred will be liable under this new offence. To be 'responsible' for a girl, the person will either have parental responsibility for the girl (such as mothers, fathers married to the mother at the time of birth, and guardians) and have frequent contact with her, or where the person is aged 18 or over they will have assumed responsibility for caring for the girl 'in the manner of a parent', for example, family members to whom parents might send their child during the summer holidays. See: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/416323/Fact_sheet_-_FGM_-_Act.pdf [accessed: 6 June 2018].

¹⁵⁹ FGM protection orders (FGMPOs) offer a legal way to protect and safeguard victims and potential victims of FGM. They can be granted by a court, and contain conditions specific to each case to protect a victim or potential victim. The court's powers are wide and orders may contain prohibitions, restrictions or requirements, or any terms the court thinks appropriate to change or stop the behaviour of those who would seek to subject a girl to FGM or have already arranged for or committed FGM on a victim. For example, conditions may include the surrendering of passports to prevent a person at risk of FGM being taken abroad, and a prohibition on anyone arranging for FGM to be performed. For more information, see: <https://www.gov.uk/government/publications/fgm-protection-orders-factsheet> [accessed: 6 June 2018].

¹⁶⁰ The mandatory reporting duty for FGM requires regulated health and social care professionals and teachers in England and Wales to report known cases of FGM in under 18-year-olds to the police. See: <https://www.gov.uk/government/publications/mandatory-reporting-of-female-genital-mutilation-procedural-information> [accessed: 6 June 2018].

¹⁶¹ House of Commons Home Affairs Committee (2016), 'Female genital mutilation: abuse unchecked', pp 10-1. Available at: <https://publications.parliament.uk/pa/cm201617/cmselect/cmhaff/390/390.pdf> [accessed: 24 November 2017]. The Home Affairs Committee recommended that the UK Government's FGM unit takes on a coordinating role, overseeing a single reporting and safeguarding system.

¹⁶² HMIC (2015), 'The depths of dishonour: Hidden voices and shameful crimes. An inspection of the policy response to honour-based violence, forced marriage and female genital mutilation', pp. 125-8. Available at: <https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/the-depths-of-dishonour.pdf> [accessed: 29 November 2017]; and House of Commons Home Affairs Committee (2016), 'Female genital mutilation: abuse unchecked', pp 10-1. Available at: <https://publications.parliament.uk/pa/cm201617/cmselect/cmhaff/390/390.pdf> [accessed: 24 November 2017].

¹⁶³ UK Government (December 2016), 'The Government response to the ninth report from the Home Affairs Select Committee Session 2016-17: Female genital mutilation: abuse unchecked', pp 16-7. Available at: <https://www.parliament.uk/documents/commons-committees/home-affairs/Govt-Response-FGM-abuse-unchecked.pdf> [accessed: 24 November 2017].

- The reporting duty in relation to victims under 18 is a promising development, but there is evidence that some professionals are not complying with it.¹⁶⁴ The Home Affairs Committee recommended that stronger sanctions be put in place.¹⁶⁵ The EHRC has recommended that all relevant professionals receive mandatory training and have better access to guidance to help them identify girls at risk as well as FGM survivors.¹⁶⁶
- No one has been convicted under FGM legislation to date, which could discourage women and girls affected from coming forward.¹⁶⁷

Recommendations

The EHRC recommends that the UK and Welsh governments, where relevant, should:

- improve FGM data collection in line with the recommendations of the Home Affairs Committee's 2016 inquiry
- implement a comprehensive, coordinated and properly funded FGM strategy, with clear objectives and delineated accountabilities within the UK and devolved governments, and involving relevant communities and non-governmental organisations
- provide sufficient, sustainable funding to community groups that work closely with communities where FGM is practised, and
- encourage successful prosecutions for FGM, through concrete steps.

¹⁶⁴ House of Commons Home Affairs Committee (2016), 'Female genital mutilation: abuse unchecked', p. 18. Available at: <https://publications.parliament.uk/pa/cm201617/cmselect/cmhaff/390/390.pdf> [accessed: 24 November 2017].

¹⁶⁵ Ibid.

¹⁶⁶ EHRC (2015), 'Children's rights in the UK: EHRC submission to the UN Committee on the Rights of the Child on the UK's implementation of the UN CRC', pp 20-1. Available at: <https://www.equalityhumanrights.com/en/file/4636/download?token=9fz57Alz> [accessed: 19 January 2018].

¹⁶⁷ House of Commons Home Affairs Committee (2016), 'Female genital mutilation: abuse unchecked', p 21. Available at: <https://publications.parliament.uk/pa/cm201617/cmselect/cmhaff/390/390.pdf> [accessed: 24 November 2017].

Forced¹⁶⁸ and child marriage¹⁶⁹

CEDAW states parties are obliged to ensure that everyone has the same right to freely choose a spouse and enter into marriage only with their full consent, that the betrothal and marriage of children have no legal effect, and there is a minimum age for marriage. In their joint general recommendation, the CEDAW Committee and the UN Committee on the Rights of the Child allow for marriage under 18 years only in strictly prescribed circumstances and with the permission of a court.¹⁷⁰

In England and Wales it is lawful to marry from the age of 16 with parental consent,¹⁷¹ though the numbers that do so are small.¹⁷² In 2017, the co-chairs of Girls Not Brides UK raised concerns that in some instances parental consent allows for coercion to take place.¹⁷³ There is evidence that girl brides are at an increased risk of domestic violence, and may experience adverse impacts on their personal

¹⁶⁸ A 'forced marriage' is any marriage that occurs without the full and free consent of one or both of the parties and/or where one or both of the parties is/are unable to end or leave the marriage, including as a result of duress or intense social or family pressure. OHCHR (2014), 'Preventing and eliminating child, early and forced marriage', UN doc. A/HRC/26/22, para. 6. Available at: http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session26/Documents/A-HRC-26-22_en.doc [accessed: 5 January 2018].

¹⁶⁹ 'Child marriage' is a marriage in which at least one of the parties is under 18 years.

¹⁷⁰ Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/ General Comment No. 18 of the Committee on the Rights of the Child on harmful practices, CEDAW/C/GC/31-CRC/C/GC/18, 14 November 2014, paras. 20-4 and 55(f), recommends States ensure that 'a minimum legal age of marriage for girls and boys, with or without parental consent, is established at 18 years. When a marriage at an earlier age is allowed in exceptional circumstances, the absolute minimum age must not be below 16 years, the grounds for obtaining permission must be legitimate and strictly defined by law and the marriage must be permitted only by a court of law upon the full, free and informed consent of the child or both children, who must appear in person before the court'. Available at:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/31/CRC/C/GC/18&Lang=en [accessed: 4 January 2018].

In its Concluding Observations on the UK in 2016, the Committee on the Rights of the Child raised concerns about the significant number of girls and boys aged 16-17 years affected by forced marriage. It called upon the UK Government to take measures to ensure that marriage of under 18 year-olds takes place only in exceptional circumstances and is based on the full, free and informed consent of the concerned children. The Committee also recommended raising the minimum age of marriage to 18 years (across all devolved administrations). See: UN CRC (2016), 'Concluding Observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland', UN doc. CRC/C/GBR/CO/5, paras. 20 and 47. Available at:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/GBR/CO/5&Lang=En [accessed: 4 January 2018].

¹⁷¹ Marriage Act 1949. Available at: <http://www.legislation.gov.uk/ukpga/Geo6/12-13-14/76/contents> [accessed: 30 May 2018].

¹⁷² In 2015, in England and Wales, where age was known, 171 girls and 54 boys aged under 18 married someone of the opposite sex. ONS (2018), *Marriages in England and Wales*. [ONLINE]. Available at:

<https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/marriagecohabitationandcivilpartnerships/datasets/marriagesinenglandandwales2013> [accessed: 29 April 2018].

¹⁷³ See: <https://www.girlsnotbrides.org/child-marriage/united-kingdom/> and <https://www.theguardian.com/society/2017/aug/03/close-loopholes-that-allow-forced-child-marriage-in-the-uk> [both accessed: 5 January 2018].

development and wellbeing, such as by interrupting schooling and limiting opportunities for career and vocational advancement.¹⁷⁴

In 2014, forced marriage¹⁷⁵ was criminalised in Great Britain under the Anti-social Behaviour, Crime and Policing Act 2014.¹⁷⁶ In 2017, the UK Government's Forced Marriage Unit (FMU) gave advice or support related to a possible forced marriage in 1,196 cases in the UK.¹⁷⁷ This represents a decrease of 19% on the previous year, but according to the FMU does not represent a decrease in prevalence of forced marriage in the UK.¹⁷⁸ Of these cases, 77.8% involved female victims. Over a quarter (29.7%) involved someone below the age of 18,¹⁷⁹ 12.1% involved victims who had a learning disability, and 21 cases (1.8%) involved victims who identified themselves as lesbian, gay, bisexual or transgender.¹⁸⁰ The SR VAW found in 2015 that forced, early and child marriage affects a wide range of communities in the UK, including the Irish Traveller community, as well as Afghan, South Asian, Kurdish, Iraqi Kurd, Arab and some African communities.^{181 182}

¹⁷⁴ OHCHR (2014), 'Preventing and eliminating child, early and forced marriage', UN doc. A/HRC/26/22, paras. 21-4. Available at: http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session26/Documents/A-HRC-26-22_en.doc [accessed: 5 January 2018]. See also <https://www.girlsnotbrides.org/what-is-the-impact/>; https://www.unicef.org/protection/57929_58008.html; <http://ikwro.org.uk/2013/10/child-marriage-abuse/>; and <https://data.unicef.org/topic/child-protection/child-marriage/> [all accessed: 5 January 2018].

¹⁷⁵ This includes:

taking someone overseas to force them to marry (whether or not the forced marriage takes place) marrying someone who lacks the mental capacity to consent to the marriage (whether they're pressured to or not), and breaching a forced marriage protection order.

The civil remedy of obtaining a forced marriage protection order through the family courts will continue to exist alongside the new criminal offence, so victims can choose how they wish to be assisted.

¹⁷⁶ Sections 121 and 122, part 10. Available at:

<http://www.legislation.gov.uk/ukpga/2014/12/contents/enacted> [accessed: 4 January 2017].

¹⁷⁷ Of these cases, 1,074 were in England, 18 in Scotland, and 17 in Wales. In 84 cases the UK region was unknown.

¹⁷⁸ Foreign & Commonwealth Office and Home Office. 2018. *Forced Marriage Unit statistics 2017*. [ONLINE]. Available at: <https://www.gov.uk/government/statistics/forced-marriage-unit-statistics-2017> [accessed: 16 April 2018].

¹⁷⁹ 355 cases in 2016 (29.7%) involved victims below 18 years of age, including 186 (15.6%) that involved victims aged 15 and under.

¹⁸⁰ These figures include contact that has been made to the FMU through the public helpline or by email in relation to a new case. The use of the term 'victim' includes people thought to be at potential risk of future forced marriage, those currently going through forced marriage, and those who have already been forced to marry.

¹⁸¹ Report of the UN Special Rapporteur on violence against women, its causes and consequences, Mission to the United Kingdom of Great Britain and Northern Ireland, UN doc. A/HRC/29/27/Add.2, 19 May 2015, para. 14. Available at:

http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/29/27/Add.2 [accessed: 4 January 2018].

¹⁸² The two highest volume focus countries listed by the FMU in 2017 were Pakistan (439 cases) and Bangladesh (129 cases). 10% of the cases handled by the FMU had no overseas element. In 2016, the FMU handled cases relating to 69 'focus' countries in which a victim was at risk of being, or had already been, taken to in connection with a forced marriage.

Following a rise in the number of forced marriage referrals from the police to the CPS in England and Wales, from 59 in 2012/3 to a peak of 90 in 2015/6, the number fell to 56 in 2016/7. In 2016/7, there was only one prosecution for the specific offence of forced marriage under Section 121 of the Anti-social Behaviour, Crime and Policing Act 2014.¹⁸³ Despite some improvements, under-reporting and high attrition rates in moving from reporting to prosecution and conviction give cause for concern. The number of applications and orders made for forced marriage protection orders is small, but there has been a general upward trend since their introduction in November 2008. Between October and December 2017 there were 65 applications and 59 orders made.¹⁸⁴

Recommendations

The EHRC recommends that the UK Government should:

- ensure that legislation on marriage is in line with the international human rights framework, ensuring the best interests of the child are taken as a primary consideration in marriage legislation, providing adequate safeguards for under-18s, and
- ensure thorough investigation of all referrals of forced marriage, including those involving women with learning difficulties.

Hate crime, hate speech and identity-based harassment

Several EHRC submissions to UN bodies have called for a full-scale review of the hate crime framework,¹⁸⁵ endorsing the findings of the Law Commission in 2014.¹⁸⁶

¹⁸³ CPS (2017), 'Violence against women and girls report (tenth edition) 2016-17'. Available at: <https://www.cps.gov.uk/publication/cps-violence-against-women-and-girls-crime-report-2016-2017> [accessed: 6 June 2018]; CPS (2014), 'Violence against women and girls report 2013-14'. Available at: <https://www.cps.gov.uk/publication/cps-violence-against-women-and-girls-crime-report-2013-2014> [accessed: 6 June 2018].

¹⁸⁴ Ministry of Justice (2018). Family court statistics quarterly: October to December 2017. Available at: <https://www.gov.uk/government/statistics/family-court-statistics-quarterly-october-to-december-2017> [accessed: 16 May 2018].

¹⁸⁵ Most recently, in a report to the Committee on the Elimination on Racial Discrimination, under the follow-up reporting procedure. See: Equality and Human Rights Commission (2017), 'Race rights in the UK: Submission to the United Nations Committee on the Elimination of Racial Discrimination in accordance with the Committee's procedures to follow up on Concluding Observations'. Available at: <https://www.equalityhumanrights.com/en/publication-download/race-rights-uk-submission-un-committee-elimination-racial-discrimination> [accessed: 29 April 2018].

¹⁸⁶ Law Commission (2014), 'Hate crime: should the current offences be extended?' Available at: https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jxou24uy7q/uploads/2015/03/lc348_hate_crime.pdf [accessed: 29 April 2018].

The legal framework for hate crime in England and Wales currently covers race, religion, sexual orientation, disability and transgender identity.¹⁸⁷

There are no separate offences or enhanced sentencing provisions¹⁸⁸ for hate crimes on the basis of a person's sex or gender, something that has been vigorously debated in recent months.¹⁸⁹ In its report, 'Tackling hate crime in the UK', Amnesty International UK called for gender to be included under hate crime provisions.¹⁹⁰ Agencies are free, however, to monitor crimes on a wider basis. Nottinghamshire Police launched a pilot in 2016 to record incidents of misogyny,¹⁹¹ recording 79 misogyny hate crimes and incidents in the first nine months.¹⁹² The National Police Chiefs' Council is considering whether this monitoring should be extended nationally in England and Wales following other similar trials.¹⁹³ There is no publicly available comprehensive data on hate crime victims' sex or gender, as reported to the police.¹⁹⁴ The CPS records victims' sex, but reporting is inconsistent and reliant on information being collected and passed on by police.¹⁹⁵ The national project for measuring anti-Muslim incidents has found that more than half of those who reported incidents in 2016 were female, and two-thirds of those could be described as 'visibly Muslim' at the time of the incident. Muslim women reported avoiding certain areas and stopping wearing Islamic clothing as a result of their experiences, as well as

¹⁸⁷ Ibid. The Law Commission's report, commissioned by the Ministry of Justice, recommends a full review of hate crime legislation because of the unequal protection it provides for different characteristics. The UK Government has not yet responded to the report.

¹⁸⁸ There are enhanced sentencing provisions for hate crimes that allow judges to uplift a sentence to reflect that hostility against a protected characteristic was an aggravating feature. See ss.145 and 146 Criminal Justice Act 2003. Available at: <https://www.legislation.gov.uk/ukpga/2003/44/contents> [accessed: 23 March 2018].

¹⁸⁹ In Scotland, Lord Bracadale is currently leading an independent review of hate crime legislation, including consideration of whether new categories of hate crime should be created for characteristics such as age and gender. Available at: <http://www.gov.scot/Publications/2017/08/4667/344444> [accessed: 30 April 2018].

¹⁹⁰ Amnesty International (2017), 'Tackling hate crime in the UK'. Available at: <https://www.amnesty.org.uk/files/Against-Hate-Briefing-AIUK.pdf> [accessed: 20 April 2018].

¹⁹¹ Nottinghamshire Police describe misogyny as hate crime motivated by the attitudes of men towards women, simply because they are women. Available at: <https://www.nottinghamshire.police.uk/hatecrime> [accessed: 10 May 2018].

¹⁹² Nottinghamshire Police (2016), 'Response to a request under the Freedom of Information Act'. Available at: <https://www.nottinghamshire.police.uk/document/misogyny-hate-crime-received-nottinghamshire-police-foi-00928016> [accessed: 12 January 2018].

¹⁹³ Women and Equalities Committee (2017), 'Oral evidence on women's everyday experience of sexism and sexual harassment', HC 592. Available at: <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/women-and-equalities-committee/womens-experiences-of-everyday-sexism-and-sexual-harassment/oral/75330.html> [accessed: 12 January 2018].

¹⁹⁴ Home Office (2017), *Hate crime, England and Wales, 2016 to 2017*. Available at: <https://www.gov.uk/government/statistics/hate-crime-england-and-wales-2016-to-2017> [accessed: 12 January 2018].

¹⁹⁵ The Crown Prosecution Service (2017), *Hate crime data report*. Available at: <https://www.cps.gov.uk/publication/hate-crime-report-2016-2017> [accessed: 12 January 2018].

suffering psychological impacts.¹⁹⁶ Our survey of 50 LGBT people (half of whom were women) found that verbal abuse, intimidation and harassment on the basis of sexual orientation and/or gender identity were identified as regular experiences.¹⁹⁷

A Home Affairs Committee inquiry into online hate and abuse found that women had become particular targets for abuse and misogynistic harassment. Evidence to the inquiry indicated that around two-thirds of female users of Facebook and Twitter had received abuse online, including sexist messages, politically extremist hate, unwanted sexual messages or images, stalking and threats of violence.¹⁹⁸ It recommended a full review of the legal provisions, which largely predate the use of social media, to ensure they are up-to-date.¹⁹⁹

The UK Government's proposed internet safety strategy acknowledges that women are more likely than other groups to experience online harassment, and that the nature of abuse can be acutely gendered, for example involving threats of rape.²⁰⁰ The strategy sets out a number of actions to improve safety online overall, as well as specific actions to address women's safety online, as referenced in the VAWG strategy.²⁰¹

New guidance for prosecutors in England and Wales includes specific guidelines on dealing with the online abuse of women, including cyberstalking and harassment.²⁰² There has also been a change to the law to establish a separate offence of distributing private sexual images without consent, though it must be proven it was

¹⁹⁶ TellMAMA (2017), 'Constructed threat: Identity, prejudice and the impact of anti-Muslim hatred'. Available at: <https://tellmamauk.org/constructed-threat-identity-intolerance-impact-anti-muslim-hatred-tell-mama-annual-report-2016/> [accessed: 29 November 2017]. TellMAMA received a total of 953 reports of anti-Muslim incidents during the year.

¹⁹⁷ See: <https://www.equalityhumanrights.com/sites/default/files/research-lgbt-hate-crime-reporting-identifying-barriers-and-solutions.pdf> [accessed: 6 June 2018].

¹⁹⁸ Fawcett Society (2017), written evidence to the Home Affairs Select Committee. Available at: <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/home-affairs-committee/hate-crime-and-its-violent-consequences/written/48761.pdf> [accessed: 22 November 2017]. Research by Demos in 2016 has also explored the scale of misogynistic abuse through Twitter, see <https://www.demos.co.uk/blog/misogyny-online/> [accessed: 29 November 2017].

¹⁹⁹ Home Affairs Committee (2017), 'Hate crime: abuse, hate and extremism online'. Available at: <https://www.parliament.uk/business/committees/committees-a-z/commons-select/home-affairs-committee/inquiries/parliament-2015/inquiry7/> [accessed: 29 November 2017].

²⁰⁰ Department for Digital, Culture, Media & Sport (2017), 'Internet safety strategy green paper'. Available at: <https://www.gov.uk/government/consultations/internet-safety-strategy-green-paper> [accessed: 12 January 2018].

²⁰¹ Home Office (2016), 'Strategy to end violence against women and girls: 2016 to 2020'. Available at: <https://www.gov.uk/government/publications/strategy-to-end-violence-against-women-and-girls-2016-to-2020> [accessed: 11 January 2018].

²⁰² The Crown Prosecution Service (2017), 'Guidelines on prosecuting cases involving communications sent via social media'. Available at: <https://www.cps.gov.uk/legal-guidance/guidelines-prosecuting-cases-involving-communications-sent-social-media> [accessed: 12 January 2018].

done with intent to cause distress, which carries a sentence of up to two years.²⁰³ Commonly known as 'revenge porn', 80% of victims contacting the government-funded helpline are women.²⁰⁴

Recommendations

The EHRC recommends that the UK and Welsh governments should:

- improve the way in which data is collected and shared so that robust analysis can be undertaken to inform effective approaches to deal with hate crime; make sure that data will be fully disaggregated on the basis of protected characteristics, and gathered consistently across the criminal justice system and within individual agencies to allow comparative and chronological analysis, and
- with due regard for the right to freedom of expression, invest in further research into online abuse marked by misogyny, violence against women and girls, and other bias-motivated hostility, and develop effective mechanisms and interventions for tackling it.

The EHRC recommends that the UK Government should:

- commit to a full-scale review of hate crime offences and enhanced sentencing powers in England and Wales to ensure adequate protection for women and fair and appropriate access to justice, and
- consider amending hate crime legislation to extend protections on the basis of gender.

²⁰³ Criminal Justice and Courts Act 2015, part 1, section 33. See <http://www.legislation.gov.uk/ukpga/2015/2/section/33/enacted> [accessed: 12 January 2018].

²⁰⁴ See: <https://www.bristolzerotolerance.com/understanding-victims-of-revenge-porn/> [accessed: 1 June 2018].

4. Access to civil justice:

relates to articles 2.c and 15, CO paragraphs 23.a-b and 47.e and SDG 16

Legal aid

The Legal Aid, Sentencing and Punishment of Offenders Act (LASPO) 2012 significantly narrowed the scope of civil legal aid in England and Wales. Legal aid is no longer available for most private family law, housing, non-asylum immigration, welfare benefits, employment, debt and clinical negligence matters.²⁰⁵

Various reviews have found LASPO to have significantly curtailed access to justice in England and Wales.²⁰⁶ We reported to the CEDAW Committee in March 2016 on the impact of these changes on women.²⁰⁷ Our analysis suggested that the reduced scope of legal aid in private family law, housing and debt matters may have had a disproportionately adverse impact on women, who are over-represented in these areas of law, potentially limiting their access to justice.²⁰⁸ We also highlighted concerns that the exceptional case funding scheme may not be operating effectively to provide legal aid when it is necessary to protect an individual's human rights.

²⁰⁵ See the Legal Aid, Sentencing and Punishment of Offenders Act 2012, Schedule 1. Available at: <http://www.legislation.gov.uk/ukpga/2012/10/contents> [accessed: 15 November 2017].

²⁰⁶ See: <https://www.tuc.org.uk/research-analysis/reports/justice-denied-impacts-government%E2%80%99s-reforms-legal-aid-and-court-services>, https://www.amnesty.org.uk/files/aiuk_legal_aid_report.pdf and http://www.fabians.org.uk/wp-content/uploads/2017/09/Bach-Commission_Right-to-Justice-Report-WEB.pdf [all accessed: 1 June 2018].

²⁰⁷ EHRC (2016), 'Legal aid reforms and women's access to justice'. Available at: <https://www.equalityhumanrights.com/en/our-human-rights-work/monitoring-and-promoting-un-treaties/convention-elimination-discrimination> [accessed: 12 January 2018].

²⁰⁸ For more information, see Anthony, H. and Crilly, C. (2015), 'Equality, human rights and access to civil law justice: a literature review', Equality and Human Rights Commission Research Report 99, Available at: <https://www.equalityhumanrights.com/en/publication-download/equality-human-rights-and-access-civil-law-justice-literature-review> [accessed: 24 August 2016].

Legal aid remains available in private family law cases involving domestic abuse.²⁰⁹ However, civil society organisations have raised concerns since the introduction of LASPO that the requirements for evidencing domestic abuse are preventing women from accessing legal aid. A study by the Rights of Women and Women's Aid in 2015 found 37% of domestic abuse survivors did not have any of the required forms of evidence.²¹⁰ A Court of Appeal ruling in 2016 found that the evidence regulations were unlawful and created barriers for women in accessing legal aid.²¹¹ In December 2017, the UK Government announced it would increase the range of acceptable evidence by allowing statements from domestic violence support organisations and housing officers, and would remove the five-year time limit on evidence.²¹²

Since the introduction of LASPO, there has been an increase in the number of people representing themselves in court.²¹³ In the first three quarters of 2017, figures show 3,234 (27%) applicants in domestic violence cases were unrepresented, compared with 1,309 (16%) for the same period in 2012.²¹⁴ In these cases, women who have suffered domestic abuse may have to cross-examine their abuser or be cross-examined by them.²¹⁵ In the consultation on 'Transforming the response to

²⁰⁹ See LASPO Schedule 1, part 1, paragraph 11. Women represent around two-thirds of victims in domestic abuse-related prosecutions; see Office for National Statistics (2017), 'Domestic abuse in England and Wales – Appendix table 24: Sex of defendants and victims in domestic abuse-related prosecutions, year ending March 2010 to year ending March 2017'. Available at: <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/domesticabuseinenlandandwalesappendixtables> [accessed: 29 November 2017]. Note that in around 18% of cases the sex of the defendant is recorded as unknown.

²¹⁰ See Rights of Women, Women's Aid and Welsh Women's Aid (2015), 'Evidencing domestic violence: nearly 3 years on'. Available at: <http://rightsofwomen.org.uk/wp-content/uploads/2014/09/Evidencing-domestic-violence-V.pdf> [accessed: 15 November 2017]. This research was based on an online survey completed by 239 respondents.

²¹¹ *R (Rights of Women) v Lord Chancellor and Secretary of State for Justice*. Available at: <https://www.judiciary.gov.uk/wp-content/uploads/2016/02/queen-v-sos-rights-of-women-judgment.pdf> [accessed: 18 May 2018].

²¹² Ministry of Justice (2017), 'More legal aid support for victims of domestic violence'. Available at: <https://www.gov.uk/government/news/more-legal-aid-support-for-victims-of-domestic-violence> [accessed: 12 January 2018].

²¹³ National Audit Office (2014), 'Implementing reforms to civil legal aid'. Available at: <https://www.nao.org.uk/report/implementing-reforms-to-civil-legal-aid/> [accessed: 27 November 2017].

²¹⁴ Ministry of Justice (2017), Family court statistics quarterly, July to September 2017, table 11: legal representation status of applicants and respondents in cases with at least one hearing'. Available at: <https://www.gov.uk/government/statistics/family-court-statistics-quarterly-july-to-september-2017> [accessed: 16 January 2018]. The total number of domestic violence cases in family courts increased significantly over this period, from 8,009 in the first three quarters of 2012 to 12,040 for the same period in 2017.

²¹⁵ See, for example, the All-Party Parliamentary Group on Domestic Violence (2016), 'APPG 2016 report: domestic abuse, child contact and the family courts'. Available at: <https://www.womensaid.org.uk/appg-reports/> [accessed: 27 November 2016].

domestic abuse', the UK Government has said it will 'legislate to give family courts the power to stop this practice as soon as legislative time allows'.²¹⁶

The UK Government published preliminary analysis of LASPO in 2017,²¹⁷ and confirmed the terms of reference for a full post-implementation review, which is expected to be completed before the end of 2018.²¹⁸

Recommendations

The EHRC recommends that the UK Government should:

- ensure its LASPO post-implementation review utilises the full range of evidence available, including an assessment of the equality and human rights impacts of the LASPO provisions on women, survivors of domestic violence and other groups sharing protected characteristics
- consider bringing areas of law back into the scope of legal aid if reductions in scope are found to have had a disproportionate impact on women, and
- put forward legislation to end the cross-examination of domestic violence victims by their perpetrators in the family courts.

Employment tribunals

Fees for employment tribunals were introduced by the UK Government for the first time in July 2013, set in two bands depending on the complexity of the claim.²¹⁹ Following this, the number of claims brought to tribunal declined by 70% between

²¹⁶ Home Office and Ministry of Justice, 'Transforming the response to domestic abuse'. Available at: https://consult.justice.gov.uk/homeoffice-moj/domestic-abuse-consultation/supporting_documents/Transforming%20the%20response%20to%20domestic%20abuse.pdf [accessed: 29 April 2018].

²¹⁷ Ministry of Justice. 2017. *Legal Aid, Sentencing and Punishment of Offenders Act 2012: post-legislative memorandum*. [ONLINE]. Available at: <https://www.gov.uk/government/publications/legal-aid-sentencing-and-punishment-of-offenders-act-2012-post-legislative-memorandum> [accessed: 29 April 2018].

²¹⁸ Ministry of Justice. 2018. *Post-implementation review of LASPO*. [ONLINE]. Available at: <https://www.gov.uk/government/publications/post-implementation-review-of-laspo> [accessed: 29 April 2018].

²¹⁹ For the purposes of fees, employment tribunals were divided into Type A claims, which have a fee level of £390, and Type B claims, which have a fee level of £1,200. Discrimination claims attracted the higher Type B fees. See: Pyper, D., McGuinness, F. and Brown, J. (2017), 'House of Commons briefing paper: employment tribunal fees'. Available at: <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN07081> [accessed: 28 November 2017].

2013 and 2017.²²⁰ The level of fees may have affected women in particular, as women are more likely to have low incomes.²²¹

Sex discrimination and equal pay claims, in which women represent four-fifths of claimants,²²² fell by 76% and 57% respectively by 2017. The number of pregnancy and maternity discrimination claims fell by 42%.²²³ A report commissioned jointly by the EHRC and the UK Government in 2015 found that while 77% of mothers had a negative or potentially discriminatory experience during pregnancy, maternity leave or on return to work, only 1% brought their claim to a tribunal.²²⁴ In addition to fees, the requirement to bring a claim within three months of the discrimination happening has also been identified as a major barrier.²²⁵

In July 2017, the UK Supreme Court²²⁶ declared the Lord Chancellor's employment tribunals and employment appeal tribunal fees order²²⁷ to be unlawful under domestic and EU law because it prevented access to justice. Fees therefore no longer apply to claims in those tribunals, and the UK Government has since put in place a scheme to refund individuals for fees they have paid since 2013.²²⁸

²²⁰ Ministry of Justice (2017), 'Tribunals and gender recognition certificate statistics quarterly: July to September 2017, employment tribunals table 1: total number of receipts by jurisdiction'. Available at: <https://www.gov.uk/government/collections/tribunals-statistics> [accessed: 16 January 2018]. These figures compare the total number of single and multiple claim cases for the years to June 2013 and June 2017.

²²¹ The Government's equality impact assessment for the proposals on employment tribunal fees identified that women were more likely to fall into the lower income bracket. See: Ministry of Justice (2012), 'Introducing fees in employment tribunals and employment appeal tribunals – equality impact assessment'. Available at <https://consult.justice.gov.uk/digital-communications/et-fee-charging-regime-cp22-2011/> [accessed: 28 November 2017].

²²² L. Trott (2012) 'Are tribunal and EAT fees a price worth paying?', *IDS Employment Law Brief*, vol. 947 (April). Cited in EHRC (2016), 'Legal aid reforms and women's access to justice'. Available at: <https://www.equalityhumanrights.com/en/publication-download/cedaw-shadow-report-legal-aid-reforms-and-womens-access-justice> [accessed: 16 January 2018].

²²³ Ministry of Justice (2017), 'Tribunals and gender recognition certificate statistics quarterly, employment tribunals table 1'. Available at: <https://www.gov.uk/government/statistics/tribunals-and-gender-recognition-certificate-statistics-quarterly-april-to-june-2017-and-2016-to-2017> [accessed: 29 April 2018]. These figures compare the number of claims for the years ending June 2013 and June 2016.

²²⁴ Equality and Human Rights Commission (2016), 'Pregnancy and maternity – related discrimination and disadvantage: the experience of mothers'. Available at: <https://www.equalityhumanrights.com/en/managing-pregnancy-and-maternity-workplace/pregnancy-and-maternity-discrimination-research-findings> [accessed: 29 November 2017].

²²⁵ See, for example: Unison (2015), 'Written evidence to the Justice Committee'. Available at: <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/justice-committee/courts-and-tribunals-fees-and-charges/written/22161.html> [accessed: 29 November 2017].

²²⁶ *R (on the application of Unison) v Lord Chancellor (2017) UKSC 51*.

²²⁷ Employment Tribunals and Employment Appeal Tribunal Fees Order 2013 (SI 2013/1893).

²²⁸ See Ministry of Justice and Her Majesty's Courts and Tribunals Services. 2017, *Press release: Application open for employment tribunal fee refunds as scheme rolls out*. [ONLINE]. Available at: <https://www.gov.uk/government/news/applications-open-for-employment-tribunal-fee-refunds-as-scheme-rolls-out> [accessed: 29 November 2017].

Recommendations

The EHRC recommends that the UK Government should:

- identify and expedite refunds for all claimants who have paid employment tribunal and employment appeal tribunal fees over the relevant period that the order was in force
- ensure no new barriers to accessing employment tribunals are introduced, and
- extend the time limit to bring an employment tribunal claim in cases involving pregnancy and maternity discrimination from three to six months, in line with other employment claims such as redundancy and equal pay.

5. Human trafficking and modern slavery: relates to article 6, CO paragraphs 39.a-b and 55.e and SDGs 5, 8 and 16

Modern slavery

In 2015, the Modern Slavery Act (MSA) came into force in England and Wales.²²⁹ The MSA unified and simplified previous legislation, gave law enforcement agencies new powers, increased penalties for trafficking offences, strengthened protections for victims and established the post of independent anti-slavery commissioner.

The adoption of the MSA saw an increase in the numbers of referrals to the UK's National Referral Mechanism (NRM).²³⁰ In 2017, the NRM received 5,145 referrals of potential victims of trafficking (representing a 35% increase on 2016), relating to 116 different nationalities. Of this number:

- 47% were female: 1,644 adult women and 810 girls
- 68% of the adult women faced sexual exploitation, and a further 28% faced domestic servitude and labour exploitation, and
- 61% of the girls faced sexual exploitation, and a further 22% faced domestic servitude and labour exploitation.²³¹

The number of referrals each year is still small, however, compared to the Home Office's estimate of 10,000 to 13,000 victims in the UK,²³² and even the latter

²²⁹ See: <http://www.legislation.gov.uk/ukpga/2015/30/contents/enacted> [accessed: 19 May 2018].

²³⁰ The NRM is the framework for identifying victims of human trafficking or modern slavery and ensuring they receive support. It was introduced in 2009 to meet the UK's obligations under the Council of Europe Convention on Action against Trafficking in Human Beings. The NRM is also the mechanism through which the Modern Slavery Human Trafficking Unit (MSHTU) collects data about victims.

²³¹ The remaining categories of exploitation are 'organ harvesting' and 'unknown'. See: National Crime Agency (2018), 'Modern slavery and trafficking: National Referral Mechanism statistics – end of year summary 2017'. Available at: <http://www.nationalcrimeagency.gov.uk/publications/national-referral-mechanism-statistics/2017-nrm-statistics/884-nrm-annual-report-2017/file> [accessed: 4 April 2018].

²³² Silverman, B. (2014), 'Modern slavery: an application of multiple systems estimation.' Available at: <https://www.gov.uk/government/publications/modern-slavery-an-application-of-multiple-systems-estimation> [accessed: 30 April 2018].

estimate may be too low.²³³ Data suggests that increasing referrals are not translating into an increase in the number of investigations, prosecutions and convictions, which have remained relatively static in Britain between 2014 and 2016.²³⁴ A potential consequence of this may be that victims of trafficking are reliving the trauma of being trafficked without finding adequate redress in the legal system.

We have identified important weaknesses in the provisions of the MSA that may hinder its effectiveness.²³⁵ These include:

- Gaps in the definition of trafficking offences: the MSA does not capture those in the trafficking chain who facilitate or arrange exploitation, e.g. there is no criminal offence of using coercion, fraud, abuse of power or payment to secure the compliance of a trafficking victim.
- Insufficient safeguards for victims: the MSA does not establish a clear obligation of non-prosecution of child victims or make it clear that a child cannot consent to their own exploitation.²³⁶
- Absence of an explicit legal duty to provide victims with support: unlike the equivalent Acts in Scotland and Northern Ireland, the MSA does not set out victims' support entitlements. Instead, the MSA establishes that arrangements for supporting victims shall be set out in guidance, which may be revised.^{237 238}
- Access to a remedy: in the case of *Taiwo v Olaigbe*, the Supreme Court made it clear that the mistreatment of migrant domestic workers by employers who exploit their employees' vulnerable situation is wrong, and that the appellants deserve a remedy. However, the law, as currently drafted in Section 8 of the MSA, 'can redress some of those harms, [but] cannot redress them all'.²³⁹

²³³ Bales, K., Hesketh, O. and Silverman, B. (2015) 'Modern slavery in the UK: how many victims?', *Significance*, vol. 12, no. 3, p. 25.

²³⁴ Independent Anti-Slavery Commissioner. (2017), 'Annual report 2016-2017', p. 44. Available at: <https://www.gov.uk/government/publications/independent-anti-slavery-commissioners-annual-report-2016-to-2017> [accessed: 19 May 2018].

²³⁵ See for example, Equality and Human Rights Commission (2015), Modern Slavery Bill, House of Lords Report, 'Briefing on amendments to clarify trafficking and slavery offences published in the Marshalled List of Amendments on 20 February 2015'.

²³⁶ The ECHR considers the definitive question as to whether a crime has been committed is whether or not a child has been exploited – not whether any means of compulsion were involved.

²³⁷ A Private Members' Bill under review by the UK Parliament seeks to align support arrangements across the UK. See: <https://services.parliament.uk/bills/2017-19/humantraffickingchildprotection.html> [accessed: 6 June 2018].

²³⁸ The Anti-Trafficking Monitoring Group (October 2016), 'Class acts: examining modern slavery legislation across the UK'. Available at: http://www.kalayaan.org.uk/wp-content/uploads/2014/09/atmg_class_acts_report_web_final.pdf [accessed: 9 January 2018].

²³⁹ See: *Taiwo (Appellant) v Olaigbe and another (Respondents) [2016]*. Available at: <https://www.supremecourt.uk/cases/uksc-2014-0105.html> [accessed: 1 June 2018].

We are also concerned about implementation. The MSA has not resulted in a consistent approach to how law enforcement and criminal justice agencies deal with modern slavery.²⁴⁰ A review of the operation of the MSA found that there was insufficient training, intelligence, and coordination between the agencies involved, in tackling this issue.²⁴¹

Moreover, we are concerned that the withdrawal of the UK from the EU, and therefore the obligation to uphold the 2011 EU Trafficking Directive, may result in a regression in the rights of victims to support and assistance.²⁴²

Recommendations

The EHRC recommends that the UK Government should:

- review the Modern Slavery Act 2015 within five years of its commencement
- address the outlined gaps in the Modern Slavery Act by bringing forward amendments to the legislation
- update the 2014 modern slavery strategy²⁴³ and include new ambitious targets for increasing referrals, training frontline services, improving data collection and creating a framework for government agencies to coordinate their work, and
- introduce a legal duty to support victims of modern slavery with clear minimum standards in England and Wales prior to the UK's withdrawal from the EU.

²⁴⁰ For example, in *TDT v Secretary of State for the Home Department* (2016), the EHRC intervened to try to clarify when the Home Secretary's protective and operational duty under ECHR Article 4 applies in suspected trafficking cases, as well as the safeguarding approach that should apply in the case of child victims of trafficking. See: <http://www.bailii.org/ew/cases/EWHC/Admin/2016/1912.html> [accessed: 1 June 2018].

²⁴¹ Haughey, C. (2016) *The Modern Slavery Act Review*, 31 July 2016, p. 3. See: <https://www.gov.uk/government/publications/modern-slavery-act-2015-review-one-year-on> [accessed: 1 June 2018]. A report by HMICFR also identified serious deficiencies in the policing response to trafficking and modern slavery, both in their ability to identify victims and in their investigative practices. Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services (2017), 'Stolen freedom: the policing response to modern slavery and human trafficking'. Available at: <https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/stolen-freedom-the-policing-response-to-modern-slavery-and-human-trafficking.pdf> [accessed: 1 June 2018].

²⁴² The rights of victims of trafficking in England and Wales to receive support and assistance enshrined in the 2011 EU Trafficking Directive have not been implemented in domestic legislation, leaving them vulnerable post Brexit. The Anti-Trafficking Monitoring Group (July 2017), *Brexit and the UK's fight against modern slavery. A briefing by the Anti-Trafficking Monitoring Group* [ONLINE], Available at: <https://www.antislavery.org/brexit-modern-slavery/> [accessed: 18 January 2018].

²⁴³ HM Government (2014), 'Modern slavery strategy'. Available at: <https://www.gov.uk/government/publications/modern-slavery-strategy> [accessed: 18 January 2018].

Strengthening the National Referral Mechanism

Following concerns regarding the operation of the NRM,²⁴⁴ the UK Government commissioned a major review, which in November 2014 made recommendations that largely reflected the issues raised by the EHRC.²⁴⁵

In October 2017, following a pilot, the UK Government announced that a number of changes would be made to the operation of the NRM including:²⁴⁶

- the creation of a single, expert unit in the Home Office to handle all cases referred from frontline staff²⁴⁷
- an independent panel of experts to review all negative decisions, and
- a new digital system to support the NRM process, making it easier for those on the front line to refer victims for support and enabling data to be captured and analysed.

We welcome the announcement, which should make the referral process easier and streamline decision making. However, the intended changes do not address all of the issues that we have raised, such as the need to introduce a requirement for public authorities, including health authorities, schools, prisons, probation services, competent authorities and voluntary organisations performing a public function, to record and report suspected victims of trafficking to increase their identification.²⁴⁸ In

²⁴⁴ Equality and Human Rights Commission (May 2015), *Civil and Political Rights in the UK: Submission to the United Nations Human Rights Committee on the United Kingdom's Implementation of the International Covenant on Civil and Political Rights*, pp. 25-27. See also Unicef UK (2017) *Identify. Protect. Repeat. How to lead the world in supporting child victims of trafficking*.

²⁴⁵ Home Office, Review of the National Referral Mechanism for victims of human trafficking, November 2017 [ONLINE]. Available at:

<http://webarchive.nationalarchives.gov.uk/20141202113228/https://nrm.homeoffice.gov.uk/documents/2014/11/nrm-final-report.pdf> [accessed: 6 June 2018]. Anti-trafficking campaigners such as Anti-Slavery International have welcomed the changes, see: <https://www.antislavery.org/changes-slavery-victims-identification/>, although others, including ECPAT (Every Child Protected Against Trafficking), also point out that the changes do not go far enough to protect child victims of trafficking in particular, see <https://www.ecpat.org.uk/news/reforms-to-the-nrm> [all accessed: 1 June 2018].

²⁴⁶ Home Office, Modern Slavery Taskforce agrees new measures to support victims, 17 October 2017. Available at: <https://www.gov.uk/government/news/modern-slavery-taskforce-agrees-new-measures-to-support-victims> [accessed: 18 January 2018].

²⁴⁷ This will replace the current case management units in the National Crime Agency (for EU/EEA victims) and UK Visas and Immigration (for non-EU/EEA victims).

²⁴⁸ In particular we also called for:

- the introduction of a trafficking care standard and an end-to-end service for trafficking victims
- the provision of legal advice from the point at which a potential victim of trafficking is identified
- a clear statutory duty to record and report trafficked children who go missing from care
- work with local safeguarding children boards' chairs and local authorities to build their awareness of the importance of the identification and support of child victims, including the role of clear indicators, and

addition, we would need more information from the UK Government about the nature of the new independent oversight mechanism before we can agree that this could replace the formal appeals process specified in the Council of Europe Convention on Action against Trafficking in Human Beings.

The Welsh Government's Anti-Slavery Leadership Group, which includes an anti-slavery coordinator, seeks to improve collaboration between devolved and non-devolved organisations in Wales as well as support to survivors.²⁴⁹

Recommendations

The EHRC recommends that the UK Government should:

- publish the evaluation of the pilot schemes that tested the recommendations of the 2014 review of the NRM to explain its position on each of the recommendations, and
- consult formally on plans to reform the way victims of modern slavery are identified and supported before the changes are formally adopted, and publish a timetable for their implementation and review outcomes.

The EHRC recommends that the UK and Welsh governments should:

- create a requirement for public authorities to record and report suspected victims of trafficking.

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- clarity that only a credible suspicion is required to trigger the provision of support and assistance, including legal aid, to victims, in accordance with the State's positive obligations to investigate under Article 4 ECHR.

²⁴⁹ Welsh Government. 2015. *What we're doing*. [ONLINE]. Available at: <http://gov.wales/topics/people-and-communities/communities/safety/anti-slavery/what-we-are-doing/?lang=en> [accessed: 29 April 2018].

6. Detention and asylum:

relates to articles 2 and 15, CO paragraphs 55.a-d, 57.a-b and 59.a and SDGs 3 and 16

Women in prison

Despite welcome improvements in legislation and guidance,²⁵⁰ ²⁵¹ the issues women in prison face in England and Wales have not altered significantly since the publication of the landmark Corston report in 2007.²⁵² The Prisons and Probation Ombudsman recently concluded: 'While the [UK] Government accepted most of Corston's 43 recommendations, the sweeping whole-system reform envisaged has yet to be delivered'.²⁵³ In 2017, the UK Government consulted on a forthcoming female offender strategy. Respondents urged the Ministry of Justice to consider the

²⁵⁰ Section 10 of the Offender Rehabilitation Act 2014 requires arrangements for the supervision and rehabilitation of offenders to identify measures taken to address the particular needs of women.

²⁵¹ Crown Prosecution Service charging criteria include potential referrals to community rehabilitation services, provided the crime does not merit a custodial sentence. Criteria for this type of sentencing include:

- evidence of domestic or sexual abuse
- mental health issues
- drug use
- alcohol dependency
- parenting issues.

'*Diverting women offenders and the women specific condition (within the national conditional framework)*.' Crown Prosecution Service. London. 2017. Available at: <https://www.cps.gov.uk/legal-guidance/diverting-women-offenders-and-women-specific-condition-within-national-conditional> [accessed: 6 June 2018].

²⁵² Home Office. (2007) 'The Corston report: A report by Baroness Jean Corston of a review of women with particular vulnerabilities in the criminal justice system'. Available at: <http://webarchive.nationalarchives.gov.uk/+http://www.homeoffice.gov.uk/documents/corston-report/> [accessed: 29 April 2018]. In the words of Baroness Corston, the review focused on 'the many women in prison, either on remand or serving sentences for minor, non-violent offences ... Many of them suffer poor physical and mental health or substance abuse, or both. Large numbers have endured violent or sexual abuse or had chaotic childhoods. Many have been in care ... [They are] ... exploited by men, damaged by abuse and drug addiction'. The report's recommendations included better, more widespread community services for women (including residential women's centres so 'vulnerable' women were not detained in prison because there was nowhere suitable for them in the community), better funding for diversion programmes and smaller local custodial units to replace prisons over time.

²⁵³ Prisons and Probation Ombudsman. 2017.

Learning Lessons Bulletin, 'Self Inflicted Deaths amongst Women Prisoners'. Available at: https://s3-eu-west-2.amazonaws.com/ppo-dev-storage-4dvlj6igfyh/uploads/2017/03/PPO-Learning-Lessons-Bulletin_Self-inflicted-deaths-among-female-prisoners_WEB.pdf [accessed: 6 June 2018].

distinct requirements of women in prisons, and the need to reduce the reliance on custodial sentences.²⁵⁴

Women in prison are much more likely to self-harm than men.²⁵⁵ In 2017, there were two self-inflicted deaths in the female estate, compared with 12 in 2016. In 2015, two widely reported cases of self-inflicted deaths highlighted the particular issues transgender women face in prison. Both women had been held in male prisons. The UK Government has since conducted a review of the care and management of transgender offenders, recognising the importance of identifying mental health needs.

In the 12 months ending September 2017 there were:

- seven self-harm incidents per individual in female establishments, compared with 3.4 in male establishments. This number is the highest since 2011, and
- 292 self-harming individuals per 1,000 prisoners in female establishments, compared with 124 in male establishments.²⁵⁶

Although the number of women prisoners has reduced gradually since 2004,²⁵⁷ the UK still detains too many women, including disproportionate numbers on remand.²⁵⁸ HM Inspectorate of Prisons (HMI Prisons) recently observed that there are women in prison who should not be there.²⁵⁹ In response, the Independent Advisory Panel on

²⁵⁴ Women in Prison (2017), 'A response to the Ministry of Justice offender policy team female offender strategy call for evidence'. Available at: <http://www.womeninprison.org.uk/perch/resources/final-wip-response-to-female-offender-strategy.pdf> [accessed: 29 April 2018].

²⁵⁵ HM Inspector of Prisons. 2017. London. 'Annual Report 2016-17'. Available at: https://www.justiceinspectores.gov.uk/hmiprisons/wp-content/uploads/sites/4/2017/07/HMIP-AR_2016-17_CONTENT_11-07-17-WEB.pdf [accessed: 6 June 2018].

²⁵⁶ Ministry of Justice and Her Majesty's Prison and Probation Service (HMPPS) (2017), 'Safety in custody quarterly: update to September 2017, summary tables'. Available at: <https://www.gov.uk/government/statistics/safety-in-custody-quarterly-update-to-september-2017> [accessed: 20 May 2018].

²⁵⁷ Prisons and Probation Ombudsman. 2017.

Learning Lessons Bulletin, 'Self Inflicted Deaths amongst Women Prisoners'. Available at: https://s3-eu-west-2.amazonaws.com/ppo-dev-storage-4dvjl6iqfyh/uploads/2017/03/PPO-Learning-Lessons-Bulletin_Self-inflicted-deaths-among-female-prisoners_WEB.pdf [accessed: 6 June 2018].

²⁵⁸ See Women in Prison, 'Key facts'. Available at: <http://www.womeninprison.org.uk/research/key-facts.php> [accessed: 20 May 2018]. The proportion is 16%. Less than half of women remanded by magistrates' courts and subsequently found guilty are given a prison sentence. Overall percentage for the prison population is 9%. See Allen and Watson, (2017), UK Prison Population Statistics, House of Commons Briefing, London. Available at: <http://researchbriefings.files.parliament.uk/documents/SN04334/SN04334.pdf> [accessed: 6 June 2018].

²⁵⁹ 'Annual Report 2016-17'. HM Inspectorate of Prisons. 2017. Available at: https://www.justiceinspectores.gov.uk/hmiprisons/wp-content/uploads/sites/4/2017/07/HMIP-AR_2016-17_CONTENT_11-07-17-WEB.pdf [accessed: 6 June 2018].

Deaths in Custody has called for more investment in women's community services and a greater use of community sentences.²⁶⁰

There are various measures in place to prevent needless custodial sentences. However, many services are significantly under-resourced. Liaison and diversion schemes (called diversion services in Wales), which help to identify adults and children with particular needs and are required to develop gender-specific pathways for women, could help reduce the use of custodial sentences.²⁶¹ The available evidence shows signs of good practice;²⁶² however, the quality and availability of these services remain patchy, especially for women from ethnic minorities.^{263 264}

Recommendations

The EHRC recommends that the UK Government should:

- use the opportunity of its new female offenders strategy to address and implement all outstanding recommendations of the 2007 Corston report, and ensure that the strategy gives full consideration to the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders ('the Bangkok Rules'), and
- monitor and review the use of community sentences for women with the aim of promoting their greater use.

The EHRC recommends that the UK and Welsh governments should:

- develop and provide funding to sustain a network of women's centres to support liaison and diversion from the criminal justice system and enable rehabilitation, particularly for ethnic minority women, and

²⁶⁰ 'Preventing the Deaths of Women in Prison – initial results of a rapid information gathering exercise by the Independent Advisory Panel on Deaths in Custody. Working paper – version 0.2' Independent Advisory Panel on Deaths in Custody. March 2017.

²⁶¹ 'There's a reason we're in trouble: Domestic abuse as a driver to women's offending', Prison Reform Trust. London. 2017. Available at: http://www.prisonreformtrust.org.uk/Portals/0/Documents/Domestic_abuse_report_final_lo.pdf [Accessed: 6 June 2018].

²⁶² 'A thematic inspection of the provision and quality of services in the community for women who offend'. HM Inspectorate of Probation. London. 2016. Available at: <https://www.justiceinspectorates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2016/09/A-thematic-inspection-of-the-provision-and-quality-of-services-in-the-community-for-women-who-offend.pdf> [accessed: 6 June 2018].

²⁶³ 'Counted out: Black, Asian and minority ethnic women in the criminal justice system.' Prison Reform Trust. London. 2017. Also 'There's a reason we're in trouble: Domestic abuse as a driver to women's offending', Prison Reform Trust. London. 2017.

²⁶⁴ 'A thematic inspection of the provision and quality of services in the community for women who offend'. HM Inspectorate of Probation. London. 2016.

- improve the provision and availability of mental health services in prison, including for transgender women, recognising the different issues women experience while in prison, to prevent suicide or self-harm.

Immigration detention

In 2016, 4,093 women entered immigration detention in the UK, compared with 24,810 men.²⁶⁵ The average length of time spent in immigration detention has been gradually increasing since 2010, and the UK is the only European state without a maximum time limit.²⁶⁶

Most women are held at Yarl's Wood Immigration Removal Centre (IRC). There have been many allegations in the media and from civil society about sexual abuse and inappropriate behaviour by staff there.²⁶⁷ HMI Prisons surveyed detainees in 2015 and found evidence of inappropriate comments from staff as well as sexual contact and abuse.²⁶⁸ In its subsequent 2017 inspection, HMI Prisons noted that allegations of sexual misconduct were now being dealt with properly,²⁶⁹ however protests over detainees' treatment continue.²⁷⁰

Serious concerns about the detention of pregnant women and survivors of sexual abuse, rape and other forms of violence remain largely unaddressed, however, despite new legislation and guidance from the Home Office. In 2016, the Shaw Review into the welfare in detention of vulnerable persons²⁷¹ recommended that there should be a presumption against detention for victims of rape and other sexual or gender-based violence, including FGM, and an absolute exclusion for pregnant

²⁶⁵ Home Office (2017), Immigration statistics – Detention tables – dt 01 to pr 01. Available at: <https://www.gov.uk/government/statistics/immigration-statistics-april-to-june-2017> [accessed: 20 May 2018].

²⁶⁶ McGuinness, T., and Gower, M. (2017), 'Immigration detention in the UK: an overview'. Available at: <http://researchbriefings.files.parliament.uk/documents/CBP-7294/CBP-7294.pdf> [accessed: 29 April 2018].

²⁶⁷ For example, Women against Rape (2013) '*Sexual abuse allegations corroborated at Yarl's Wood Immigration Centre*'. Available at: <http://www.womenagainstrape.net/inthedia/sexual-abuse-allegations-corroborated-yarls-wood-i> [accessed: 29 April 2018].

²⁶⁸ HMI Prisons (2015), 'Unannounced inspection into Yarl's Wood Immigration Removal Centre'. Available at: <https://www.justiceinspectorates.gov.uk/hmiprison/wp-content/uploads/sites/4/2015/08/Yarls-Wood-web-2015.pdf> [accessed: 29 April 2018].

²⁶⁹ Ibid.

²⁷⁰ See: <http://www.bbc.co.uk/news/uk-england-beds-bucks-herts-43204473> [accessed: 20 May 2018].

²⁷¹ Shaw, S. (2016), 'Review into the welfare in detention of vulnerable persons'. Available at: <https://www.gov.uk/government/publications/review-into-the-welfare-in-detention-of-vulnerable-persons> [accessed: 29 April 2018].

women. This was echoed by the All-Party Parliamentary Groups on Refugees and Migration in their 2015 joint inquiry.²⁷²

The Immigration Act 2016 introduced time limits on the period of time that pregnant women may be detained and reinforced that they should only be detained in exceptional circumstances.²⁷³ The Immigration Act also required statutory guidance to improve safeguards against detention for vulnerable people.²⁷⁴ However, there is evidence that the guidance, introduced in September 2016, reduced protection for women who are victims of gender based violence and trafficking.²⁷⁵ Stakeholders such as Women for Refugee Women²⁷⁶ also report that the screening process to determine whether women have experienced violence or have mental health conditions is inadequate, and vulnerable women continue to be detained. The Royal College of Midwives²⁷⁷ reports that since the Immigration Act came into force, fewer pregnant women have been detained but that some continue to be, and that it has become harder to obtain information about these women or to provide any level of support to them.

The charity Freedom from Torture found that in 74% of cases the Home Office caseworker replaced the clinician's opinion with their own, including in relation to what forms of evidence there should be to prove claims of torture such as rape and sexual violence.²⁷⁸ In its 2017 inspection of Yarls' Wood Immigration Removal

²⁷² APPG Refugees and APPG Migration, (March 2015), 'The report of the inquiry into the use of immigration detention in the United Kingdom'. Available at: <https://detentioninquiry.com/report/> [accessed: 29 April 2018].

²⁷³ s.60 Immigration Act 2016. Pregnant women may only be detained if they will shortly be removed from the UK, and if there are exceptional circumstances to justify the detention. They may not be detained for longer than 72 hours, extendable up to a week in total with Ministerial approval.

²⁷⁴ Statutory guidance issued under section 59 Immigration Act 2016, 'Adults at risk in immigration detention'. The guidance notes there is a presumption against the detention of vulnerable women at risk of harm in detention. However, this presumption will be set against any immigration control factors in deciding whether they should be detained.

²⁷⁵ The new guidance changed the definition of torture used by the Home Office to identify people who should only be detained in 'very exceptional circumstances' to exclude women who had experienced GBV or trafficking perpetrated by private actors. This restrictive definition of torture was successfully challenged in the case of *Medical Justice & Otrs v SSHD* [2017] EWHC 2461 (Admin), in which the EHRC intervened. The old definition of torture has been temporarily reinstated until the Government confirms how it will amend the guidance and associated policies to comply with the judgment.

²⁷⁶ Women for Refugee Women (November 2017), 'We are still here: the continued detention of women seeking detention in Yarl's Wood'. Available at: <http://www.refugeewomen.co.uk/research/> [accessed: 29 April 2018].

²⁷⁷ Royal College of Midwives, (October 2017), 'Women in immigration detention: vulnerable but not visible'. Available at: <https://www.rcm.org.uk/news-views-and-analysis/views/women-in-immigration-detention-vulnerable-but-not-visible> [accessed: 29 April 2018].

²⁷⁸ Freedom from Torture (November 2016), 'Proving torture, demanding the impossible: Home Office mistreatment of expert medical evidence'. Available at: https://www.freedomfromtorture.org/proving_torture [accessed: 29 April 2018].

Centre,²⁷⁹ HMI Prisons noted that: 'In some cases the Home Office refused without explanation to accept rape as torture.'²⁸⁰

HMI Prisons also expressed concern about suicidal women detainees, lack of counselling facilities, the detention of pregnant women, long periods of detention, and 'perfunctory' monitoring of women who may have been tortured.²⁸¹ Over two-thirds of women at Yarl's Wood were released back into the community, raising questions about whether they should ever have been detained.^{282 283}

Recommendations

The EHRC recommends that the UK Government should:

- ensure that immigration detention is used as a last resort, and commit to setting a maximum limit of 28 days on the length of time an individual can be held
- improve screening and strengthen detention policies to ensure that women who have experienced rape and gender-based violence, pregnant women or women who have mental health conditions are not held in immigration detention, and
- take steps to ensure women detainees receive adequate healthcare services, including appropriate mental health care and, until the detention of pregnant women ceases, midwifery.

²⁷⁹ HMI Prisons (2017), 'Unannounced Inspection of Yarl's Wood, London'. Available at: <https://www.justiceinspectorates.gov.uk/hmiprisons/media/press-releases/2017/11/yarls-wood-significant-improvements-in-conditions-but-concerns-over-vulnerability-of-detainees/> [accessed: 4 December 2017]

²⁸⁰ Ibid.

²⁸¹ HMI Prisons (2015), 'Unannounced Inspection of Yarl's Wood, London'. Available at: <https://www.justiceinspectorates.gov.uk/hmiprisons/media/press-releases/2015/08/yarls-wood-immigration-removal-centre-not-meeting-the-needs-of-vulnerable-women/> [accessed: 4 December 2017]

²⁸² HMI Prisons (2017), 'Unannounced Inspection of Yarl's Wood, London'. Available at: <https://www.justiceinspectorates.gov.uk/hmiprisons/media/press-releases/2017/11/yarls-wood-significant-improvements-in-conditions-but-concerns-over-vulnerability-of-detainees/> [accessed: 4 December 2017]

²⁸³ Women for Refugee Women (November 2017), 'We are still here: the continued detention of women seeking detention in Yarl's Wood'.

Asylum seekers' access to services

In England, refused asylum seekers and people with insecure immigration status are ineligible for free healthcare except for primary care and emergency treatment.²⁸⁴

Confusion and misinformation among migrants, asylum seekers and refugees about their eligibility (or otherwise) for free healthcare could delay access to treatment and have a detrimental impact on health. There is also confusion among health professionals about how this policy is applied in practice.²⁸⁵ The Care Quality Commission (CQC) has noted that asylum seekers and refugees are likely to have poor awareness of the NHS, and fear barriers to treatment that can cause them to delay accessing care.²⁸⁶

The Welsh Government introduced regulations in 2009 to allow refused asylum seekers to access free healthcare. In 2016, it published a refugee and asylum seekers delivery plan that sets out priorities for health, wellbeing and social care.²⁸⁷ The Welsh Government is currently consulting on the 'Nation of sanctuary – refugee and asylum seeker plan'.²⁸⁸

In England, there is a data-sharing agreement (or memorandum of understanding) between the Department of Health, NHS Digital and the Home Office, which allows Home Office staff to make requests to NHS Digital for patient data in England for the purpose of enforcing immigration law.²⁸⁹ Concerns have been raised about the human rights implications of this data-sharing agreement and its potential to further

²⁸⁴ Full details of the cost recovery system are available at: <https://www.gov.uk/government/collections/nhs-visitor-and-migrant-cost-recovery-programme> [accessed: 6 June 2018]. Refugees and asylum seekers are exempt from charges in England, Scotland and Wales. In England, refused asylum seekers not in receipt of support will be charged for healthcare except for GP consultations, emergency care and certain other specified services. See Part 3, National Health Service (Charges to Overseas Visitors) Regulations 2015/238 as amended by the National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2017. Available at: www.legislation.gov.uk/ukxi/2015/238/pdfs/ukxi_20150238_en.pdf and www.legislation.gov.uk/ukxi/2017/756/pdfs/ukxiem_20170756_en.pdf [both accessed: 6 June 2018].

In Wales, refused asylum seekers can access non-emergency care free of charge.

²⁸⁵ Asylum Matters (2017), 'Barriers to healthcare for people seeking asylum in the UK: briefing'. Available at:

<https://health.cityofsanctuary.org/wp-content/uploads/sites/47/2015/09/Asylum-Matters-Healthcare-Access-Briefing-May-17-3.docx> [accessed: 23 August 2017]

²⁸⁶ Care Quality Commission. (2017). Nigel's surgery 36: Registration and treatment of refugees and asylum seekers. [ONLINE]. Available at: <http://www.cqc.org.uk/guidance-providers/gp-services/nigels-surgery-36-registration-treatment-asylum-seekers-refugees> [accessed: 23 August 2017].

²⁸⁷ EHRC, 'Healing a divided Britain: the need for a comprehensive race equality strategy'. Available at: <http://www.equalityhumanrights.com/en/race-report-healing-divided-britain> [accessed: 6 June 2018].

²⁸⁸ See: <https://beta.gov.wales/nation-sanctuary-refugee-and-asylum-seeker-plan> [accessed: 18 May 2018].

²⁸⁹ Information requests from the Home Office to NHS Digital. Available at: <https://www.gov.uk/government/publications/information-requests-from-the-home-office-to-nhs-digital> [accessed: 16 January 2018].

deter people from accessing and receiving healthcare.²⁹⁰ As of May 2018, this memorandum of understanding has been suspended.²⁹¹ It is unclear as to whether there will be any changes to the legislation that provides the legal basis for data sharing between these bodies. While the suspension of the policy is a positive step, there will still be a potential deterrent effect on people accessing healthcare until the changes have been clarified and communicated effectively throughout migrant communities.

These issues have an adverse impact on women, including on their access to perinatal care. For migrants, refugees and asylum seekers 'care was frequently received late and women received fewer antenatal appointments than the minimum standards for England'.²⁹² A Maternity Action study found that concerns over charges, and the impact that unpaid debts could have on asylum applications, were significant deterrents to accessing antenatal care.²⁹³

Asylum accommodation may not adequately protect or meet the needs of women who have experienced violence, or who have health issues. In Britain, destitute asylum seekers are provided with housing funded by the Home Office and delivered by private providers of the COMPASS (Commercial and Operating Managers Procuring Asylum Support) contracts.²⁹⁴ Vulnerable women who may have experienced violence or been trafficked have been placed in mixed-sex accommodation with no women-only or safe spaces. Women survivors of rape and torture have been made to share rooms. Pregnant women and new mothers have been moved at short notice, losing the link with midwives and health visitors. In its

²⁹⁰ Just Fair and Doctors of the World (2017), 'Right to health for all'. Available at: http://docs.wixstatic.com/ugd/8a2436_dbec80f5004c42229e1e0a683c668f93.pdf [accessed: 23 August 2017]

²⁹¹ Transcript of debate in the House of Lords on Data Protection Bill on 9 May. Available at: [https://hansard.parliament.uk/commons/2018-05-09/debates/CE43B0ED-87D3-4F63-B8A4-2A66964790C2/DataProtectionBill\(Lords\)#contribution-C2F07036-B45B-4A53-B4C0-82ACDE2A7588](https://hansard.parliament.uk/commons/2018-05-09/debates/CE43B0ED-87D3-4F63-B8A4-2A66964790C2/DataProtectionBill(Lords)#contribution-C2F07036-B45B-4A53-B4C0-82ACDE2A7588) [accessed: 16 May 2018].

²⁹² Shortall, C., McMorran, J., Taylor, K., Traianou, A., Garcia de Frutos, M., Jones, L. and Murwill, P. (2015) *Experiences of Pregnant Migrant Women Receiving Ante/Peri and Postnatal Care in the UK*. Available at: http://b.3cdn.net/drofttheworld/5a507ef4b2316bbb07_5nm6bkfx7.pdf [accessed: 23 August 2017].

²⁹³ Maternity Action (2017), 'The impact of charging migrant women for NHS maternity care: a scoping study'. Available at: <https://www.maternityaction.org.uk/policy/publications/> [accessed: 16 January 2018].

²⁹⁴ Asylum accommodation requests. Available at: <https://www.gov.uk/government/publications/asylum-accommodation-requests-policy> [accessed: 16 January 2018].

inquiry into asylum accommodation, the Home Affairs Committee reported that little assessment of needs was made in determining appropriate accommodation.²⁹⁵

In 2016, we intervened in a case that found that excluding spouses of refugees from receiving protection under the destitution domestic violence concession – a rule that enables victims of domestic violence with insecure immigration status to apply for indefinite leave to remain – was discriminatory.²⁹⁶ As a result, spouses of refugees who have separated from their abusive partners should be given the same rights and protections as spouses of British citizens and settled persons who leave an abusive marriage. The Immigration Rules have yet to be formally amended to reflect the court's decision.

Recommendations

The EHRC recommends that the UK Government should:

- fully evaluate the effect of data sharing between health services and the Home Office, including the effect of fear and misunderstandings of how data is used and shared, and take action to tackle any negative effects on access to health services and health outcomes of migrant women as a consequence of this, including clearly communicating any changes to the data-sharing policy
- improve monitoring and inspection of private sector delivery of asylum accommodation contracts to ensure that the rights and needs of vulnerable women asylum seekers are met
- fully evaluate the effect of the regulations for overseas charges for healthcare and take action to tackle any negative effects on access to health services and health outcomes in relation to:
 - the unintended impact on groups who are eligible for free healthcare such as women asylum seekers, refugees and other categories of destitute migrants
 - the impact on vulnerable groups who may be technically chargeable for healthcare but have no realistic means of paying for this care, and
- amend the Immigration Rules to ensure spouses of refugees do not have to choose between staying with an abusive partner or having no recourse to public funds.

The EHRC recommends that the UK and Welsh governments should:

²⁹⁵ Home Affairs committee inquiry into asylum accommodation (2017). Available at: <https://www.parliament.uk/business/committees/committees-a-z/commons-select/home-affairs-committee/inquiries/parliament-2015/asylum-accommodation/> [accessed: 16 January 2018].

²⁹⁶ A v SSHD [2016] CSIH 38. <https://www.scotcourts.gov.uk/search-judgments/judgment?id=856415a7-8980-69d2-b500-ff0000d74aa7> [accessed: 16 January 2018].

- ensure that there is a good understanding of health-charging regulations and eligibility requirements among healthcare staff, migrants, refugees and asylum seekers, and the organisations that support them, to ensure the right to healthcare is upheld.

7. Adequate standard of living and social security:

relates to articles 2, 3, 13 and 14, CO paragraphs 21, 61.b and 63, and SDGs 1, 3, 5, 8 10 and 11

Cumulative impact of welfare and tax changes

Several EHRC submissions to UN bodies in recent years have expressed concerns that UK Government tax and welfare changes have adversely affected women, ethnic minorities, disabled people and children.²⁹⁷ Our report 'The cumulative impact of tax and welfare reforms' assessed all tax and welfare spending changes made between May 2010 and January 2018, and what impact these will have had on people sharing different protected characteristics in the year 2022. It found that on average, across the whole income distribution, women lose just under £400 per year from the reforms, whereas men lose only around £30.

Changes to transfer payments²⁹⁸ have a smaller negative effect for men than for women at almost all points of the household income distribution. This is because women tend to receive larger amounts of transfer payments than men do,²⁹⁹ partly because, as noted above, the majority of lone parents with children are women, and partly because women are more likely to receive benefits and tax credits in couples with children. Men benefit slightly more than women from the changes to income tax and NICs (National Insurance contributions). This is partly because working-age men have a higher employment rate than women, but mainly because women are more

²⁹⁷ The most recent of which was a voluntary update report to the Committee on Economic, Social and Cultural Rights. Equality and Human Rights Commission (2018), 'Progress on socio-economic rights in Great Britain: update report on Great Britain's implementation of the International Covenant on Economic, Social and Cultural Rights'. Available at: <https://www.equalityhumanrights.com/en/publication-download/progress-socio-economic-rights-great-britain> [accessed: 29 April 2018].

²⁹⁸ 'Transfer payments' are defined as the sum of benefits, tax credits and (where rolled out) Universal Credit.

²⁹⁹ Women receive an average of around £7,900 per year in transfer payments compared with around £6,550 per year for men.

likely to be caring for their pre-school children full time. Also, women are more likely than men to work part time and to have lower hourly earnings.

The report also found that:

- the differential between men and women is much more pronounced in the 25 to 34 and 35 to 44 age groups
- households with a disabled lone parent and with one or more disabled children face particularly heavy losses, equalling 29.5% of net income
- losses are especially dramatic for lone parents, 90% of whom are women,³⁰⁰ who lose around £5,250 on average, equivalent to almost 19% of their net income. This rises to up to 25% for the poorest lone parents, and
- the child poverty rate for children in lone-parent households is forecast to increase from slightly over 37% to slightly over 62% as a result of the reforms – an increase of almost 25 percentage points.³⁰¹

The Women's Budget Group and the Runnymede Trust conducted a separate cumulative impact assessment of the changes to taxes, benefits and public spending since 2010 on Black and ethnic minority women.³⁰² It found that Black and ethnic minority women are even more disproportionately affected, with Asian women standing to lose 19% of their income by 2020 (or £2,247 a year), almost twice the loss of White men in the same income group.

Recommendations

The EHRC recommends that the UK Government should:

- review the level of welfare benefits to ensure that they provide an adequate standard of living for women in households who rely partially or wholly on transfer payments
- demonstrate that regressive reforms to the tax and transfer payment system are temporary, necessary, proportionate and non-discriminatory; that they do not undercut a core minimum level of protection, and put in place any mitigating measures required to safeguard women's rights, and

³⁰⁰ Hudson-Sharp *et al.*, (2018), 'The impact of welfare reform and welfare to work programmes: an evidence review'. Available at: <https://www.equalityhumanrights.com/en/publication-download/impact-welfare-reform-and-welfare-work-programmes-evidence-review> [accessed: 29 April 2018].

³⁰¹ Equality and Human Rights Commission (2018), 'The cumulative impact of tax and welfare reforms'. Available at: <https://www.equalityhumanrights.com/en/publication-download/cumulative-impact-tax-and-welfare-reforms> [accessed: 29 April 2018].

³⁰² The Women's Budget Group and Runnymede Trust (2017), 'Intersecting inequalities: the impact of austerity in Black and minority ethnic women in the UK'. Available at: <https://www.intersecting-inequalities.com/copy-of-report> [accessed: 8 March 2018].

- prepare a cumulative impact assessment for each fiscal event, as well as analysing the impact of key individual tax or social security measures, incorporating intersectional analysis of people sharing certain protected characteristics.

Specific changes to the social security system

Universal Credit

Universal Credit (UC) was introduced by the UK Government in October 2013, with the stated aim of simplifying the benefits system through consolidating the payment of a number of benefits into a single payment.³⁰³ In a 2015 report to the Committee on Economic, Social and Cultural Rights,³⁰⁴ we shared the following concerns:

In the case of couples, Universal Credit will be paid monthly to one member of the household chosen by the couple (or into a joint account) ... a likely unintended consequence of making one payment to a single recipient on behalf of the whole family would be a reduction in the amount of independent income received by women in poorer households.³⁰⁵

Our analysis has found that for couples, the assumption about which partner receives the UC payment (when fully rolled out) is crucial for the pattern of results. If we assume a 50/50 split of UC between partners, women in the bottom decile of income distribution stand to lose around £1,450.³⁰⁶ If we assume that UC is paid to the partner with the highest weekly earnings in every couple (the male partner in around four-fifths of couples in our dataset), women's losses average around £3,650, while men stand to gain just over £1,000.

³⁰³ Kennedy, *et.al.*, (2017), 'Universal Credit roll-out: autumn/winter 2017'. House of Commons Library. Available at: <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-8096> [accessed: 21 November 2017].

³⁰⁴ Equality and Human Rights Commission (2015), 'Submission to the UN Committee on Economic, Social and Cultural Rights', p. 21. Available at: <https://www.equalityhumanrights.com/en/our-human-rights-work/monitoring-and-promoting-un-treaties/international-covenant-economic-social> [accessed: 20 November 2017].

³⁰⁵ Equality and Human Rights Commission (2013), 'Submission on the seventh periodic report of the United Kingdom to the United Nations Committee on the Elimination of All Forms of Discrimination against Women', pp.7-8. Available at: <https://www.equalityhumanrights.com/en/our-human-rights-work/monitoring-and-promoting-un-treaties/convention-elimination-discrimination> [accessed: 29 April 2018].

³⁰⁶ Equality and Human Rights Commission (2018), 'The cumulative impact of tax and welfare reforms'. Available at: <https://www.equalityhumanrights.com/en/publication-download/cumulative-impact-tax-and-welfare-reforms> [accessed: 29 April 2018].

This raises serious concerns for women's economic independence, particularly in situations of domestic abuse and coercive or controlling behaviour. Research from Women's Aid and the TUC with 126 women survivors confirmed the prevalence of this form of economic abuse:

- 91% of women surveyed felt that the payment of benefits into a joint account would lead to conflicts with their partner, or already had.
- 61% of women surveyed are in debt due to financial abuse by a partner.³⁰⁷

While the UK Government has allowed for the payment of UC to be split in exceptional circumstances, stakeholders in the domestic violence sector have raised concerns that this does not present a robust solution with enough protections to ensure the safety of women survivors of domestic abuse.³⁰⁸ When asked in October 2017 for information on the number of applicants for split payments, the UK Government responded that the 'data requested is not available'.³⁰⁹

Benefit cap

In 2013, the UK Government introduced a benefit cap, which sets a limit on the total amount of support that most working-age individuals can receive.³¹⁰ Department for Work and Pensions (DWP) data from August 2017 demonstrates the impact this has had on single parents and particularly lone mothers. Of the 68,247 households affected by the benefit cap, 78% (53,502) were single claimant households. Of these single claimant households, 90% (48,436) were female.³¹¹ ³¹² In 2015, four UN Special Rapporteurs raised concerns that the cap had 'a disproportionate impact ...

³⁰⁷ Howard, M. and Skipp, A. (2015), 'Unequal, trapped and controlled: women's experience of financial abuse and potential implications for Universal Credit'. Available at: <https://www.womensaid.org.uk/financial-abuse-report/> [accessed: 8 March 2018].

³⁰⁸ Women's Budget Group. 2018. *Briefing paper: Universal Credit and financial abuse*. [ONLINE]. Available at: <https://wbg.org.uk/analysis/briefing-papers/briefing-universal-credit-financial-abuse/> [accessed: 29 April 2018].

³⁰⁹ Hansard, Universal Credit: Written question – 106034. Available at: <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2017-10-06/106034/> [accessed: 21 May 2018].

³¹⁰ See <https://www.gov.uk/benefit-cap> [accessed: 20 May 2018].

³¹¹ Hudson-Sharp *et al.*, (2018), 'The impact of welfare reform and welfare to work programmes: an evidence review'. EHRC.

³¹² DWP (2017), 'Benefit cap: number of households capped to August 2017'. Available at: <https://www.gov.uk/government/statistics/benefit-cap-number-of-households-capped-to-august-2017> [accessed: 29 April 2018].

on female single parents' and 'may exacerbate the precarious situations of many households and contribute to a rise in poverty'.³¹³

The benefit cap has been challenged in the courts, and in June 2017 the High Court ruled that the benefit cap unlawfully discriminated against lone parents with young children under the age of two, with the judge commenting that 'real misery is being caused to no good purpose'. The UK Government successfully challenged the ruling in the Court of Appeal, which stated that the problems faced by lone parents of children under the age of two were not sufficiently disabling to make it unjust not to treat them differently from other parents. The Court of Appeal has given permission for an appeal to the Supreme Court.³¹⁴

Two-child tax credit limit

The UK Government introduced a two-child limit on Child Tax Credit from 6 April 2017, meaning that tax credit cannot be claimed for a third or subsequent child if born after 6 April 2017. Our analysis has shown that households in Wales and England with three or more children will lose at least £900 per year on average by 2021/2 from the two-child limit on most benefits, tax credits and UC introduced in 2017.³¹⁵

A judicial review into the policy was heard in February 2018, and the High Court found the policy was lawful except in respect of 'kinship carers'. The case was brought by Child Poverty Action Group (which has said it intends to appeal the finding on the lawfulness of the policy) on behalf of two lone mothers and a household with three children, who argue that the limit 'unlawfully discriminates against a number of different groups including, but not limited to, children with multiple siblings, large families and those with a religious or moral objection to the use of birth control'.³¹⁶

³¹³ Office of the High Commissioner for Human Rights. 2016. *Letter from the Mandates of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Special Rapporteur on the rights of persons with disabilities; the Special Rapporteur on extreme poverty and human rights; and the Special Rapporteur on the right to food*. [ONLINE]. Available at: [https://spdb.ohchr.org/hrdb/33rd/Public_-_AL_GBR_08.04.16_\(1.2016\).pdf](https://spdb.ohchr.org/hrdb/33rd/Public_-_AL_GBR_08.04.16_(1.2016).pdf) [accessed: 29 April 2018].

³¹⁴ <https://www.matrixlaw.co.uk/wp-content/uploads/2018/03/R-DA-Ors-v-SSWP-2018-EWCA-Civ-504.pdf> [accessed: 20 May 2018].

³¹⁵ Equality and Human Rights Commission (2018), 'The cumulative impact of tax and welfare reforms'. Available at: <https://www.equalityhumanrights.com/en/publication-download/cumulative-impact-tax-and-welfare-reforms> [accessed: 29 April 2018].

³¹⁶ Child Poverty Action Group. 2018. *Press release: High court finds two-child rule exception perverse*. [ONLINE]. Available at: <http://cpag.org.uk/content/high-court-finds-two-child-rule-exception-perverse> [accessed: 29 April 2018].

The UK Government introduced an exemption for women who have children as a result of non-consensual conception. We wrote to the Department for Work and Pensions in 2017 stating our concerns that the operation of the exemption involved invasive reporting requirements of intimate details, and raised serious issues in relation to a woman's right to private and family life.³¹⁷ However, the policy remains in place.

Recommendations

The EHRC recommends that the UK Government should:

- undertake a further equality impact assessment of Universal Credit and offer split payments as standard, and ensure, in the interim, that the current system of single payments to a couple includes improved and robust safeguards for women experiencing domestic abuse
- conduct a further equality impact assessment that fully considers the effects of the further reduction in the household benefit cap on women, and set out comprehensive strategies to mitigate any projected disproportionate and unjustified impacts, and
- review the impact on living standards restricting the entitlement to Child Tax Credits has had, set out mitigating actions where adverse impact is identified, and amend the Child Tax Credit (Amendment) Regulations 2017 to mitigate the impact of the so-called 'rape clause'.

Changes to the state pension age

Under the Pensions Act 1995, state pension age (SPA) for women was to gradually rise to 65 by 5 April 2020 to bring it in line with the then current SPA for men. Subsequent legislative changes accelerated these changes and raised the equalised SPA to 66 by October 2020 and 67 by 2028.³¹⁸ Some women's SPA is now several years later than planned for.

There are significant concerns about the impact of the changes on women whose SPA has been delayed:

³¹⁷ Equality and Human Rights Commission. 2017. *Press release: Benefits cap High Court ruling response*. [ONLINE]. Available at: <https://www.equalityhumanrights.com/en/our-work/news/benefits-cap-high-court-ruling-response> [accessed: 29 April 2018].

³¹⁸ Pensions Act 2007, Pensions Act 2011 and Pensions Act 2014

- Stakeholders have voiced concerns that the changes happened too fast, and the group of women most affected are those least likely to be able to withstand these changes.
- The Department for Work and Pensions failed to effectively communicate the changes in good time to allow the women affected to make alternative financial arrangements.³¹⁹

The campaign group Women Against State Pension Inequality (WASPI) notes that women affected by the changes are facing financial hardship as a result, and are being forced to seek work or use their savings to compensate for the delay in receiving their pension. WASPI has detailed a number of challenges with this cohort of women (born in the 1950s) seeking employment, including the job market being unwilling to accept older women, and older women being forced to accept jobs that place them in a worsened financial situation.³²⁰

In 2016, the House of Commons Work and Pensions Committee reported concerns that women were unaware of changes to their state pension dating back over 20 years.³²¹ The Committee stated that more should have been done to communicate the changes to the SPA, and called for immediate changes to improve the clarity of state pension statements.³²²

An independent review published in March 2017 identified carers and ethnic minorities as other groups also likely to be disproportionately affected by increases in the SPA.³²³ However, the UK Government has consistently rejected calls to change the equalisation timetable or to provide any financial compensation.³²⁴ In November

³¹⁹ Women Against State Pension Inequality (2015), 'Written evidence submitted from Women Against State Pension Inequality' and the factsheet '1950s women unfairly prejudiced by state pension age changes'. Available at: www.waspi.co.uk [accessed: 7 December 2017].

³²⁰ House of Commons Work and Pensions Committee (2015), 'Written evidence submitted from Women Against State Pension Inequality'. Available at: <https://www.parliament.uk/business/committees/committees-a-z/commons-select/work-and-pensions-committee/inquiries/parliament-2015/state-pension-15-16/publications/> [accessed: 29 April 2018].

³²¹ House of Commons Work and Pensions Committee (2016), 'Understanding the new state pension – interim report on pension statements'. Available at: <https://publications.parliament.uk/pa/cm201516/cmselect/cmworpen/550/550.pdf> [accessed: 29 April 2018].

³²² Ibid.

³²³ Independent Review of the State Pension Age (2017). 'Smoothing the transition: final report'. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/611461/print-ready-independent-review-of-the-state-pension-age-smoothing-the-transition.pdf [accessed: 29 April 2018].

³²⁴ 20 October 2016 State Retirement Pensions: Females: Written question – 49721 <http://www.parliament.uk/written-questions-answers-statements/written-question/commons/2016-10-20/49721> [accessed: 19 May 2018].

2017, MPs approved a motion calling on the UK Government to improve transitional arrangements for the women affected.³²⁵

Recommendations

The EHRC recommends that the UK Government should:

- consider introducing transitional arrangements for those most disadvantaged by the changes to the state pension age (SPA) within the cohort of women born in the 1950s
- undertake a comprehensive communications campaign setting out the SPA changes and their consequences, and where to access accurate, accessible information, and
- make revisions to state pension statements in line with the recommendations made by the Work and Pensions Committee.

Housing and homelessness

UK Government data shows that in England in 2017, 58,890 households were accepted as eligible for assistance because they were homeless or threatened with homelessness and considered a 'priority need' group,³²⁶ and consequently owed a main homelessness duty by a local housing authority. Of this total:

- 47% were lone female parent households
- 20% were couples with dependent children
- 14% were single male households
- 10% were single female households
- 4% were lone male parent households, and
- 5% were all other household groups.³²⁷

³²⁵ House of Commons Debate 29 November 2017 Volume 632. State Pension Age: Women Column 410. Available at: <https://hansard.parliament.uk/Commons/2017-11-29/debates/721D593D-7E54-4E69-ADCB-CBCA73618FCD/StatePensionAgeWomen> [accessed: 29 April 2018].

³²⁶ Priority need groups include pregnant women and single parents (90% of whom are women). A new Homelessness Reduction Act 2017 came into force in 2018 with new duties for local authorities to assist *all* people threatened with homelessness who are eligible for support. See: <http://www.legislation.gov.uk/ukpga/2017/13/contents/enacted> [accessed 29 April 2018].

³²⁷ Table 780: Household type, Households accepted (1) by local authorities as owed a main homelessness duty by household type, England, 2006 Q2 to 2017: Q4 <https://www.gov.uk/government/statistical-data-sets/live-tables-on-homelessness#homelessness-summary-local-authority-level-tables> [accessed 29 April 2018].

In the same year, 78,930 households in England were in temporary accommodation, of which 45% were single female households.³²⁸ During 2016/7, 9,210 households were threatened with homelessness, of which 61% of applicants for assistance were women. Women were also more likely to be provided with accommodation by the local authority (66% of applicants), probably because pregnant women and single parents (most of whom are women) would be considered to be in priority need. For over half of households (56%) who were currently homeless and given assistance to find accommodation, the applicant was male.³²⁹

However, these figures only reflect those approved to receive government assistance. In 2017, the homelessness charity Crisis estimated that there was a core homeless population – including those rough sleeping or squatting, residents in hostels and survivors of domestic abuse in refuges – of 236,000 people across Britain. This represented a 33% increase since 2011.³³⁰

In England, 14% of homeless people sleeping rough in October-November 2017 were women.³³¹ However, an inquiry by the UK Parliament's Committee on Housing, Communities and Local Government received evidence suggesting that this may be an underestimate, and that vulnerable women are particularly at risk. For example, the Nia project suggested it is often the case that services tend to be designed more with male service users in mind, and so consequently women do not receive the same level of outreach support as men.³³² The charity Women in Prison reported that many women in prison are affected by homelessness,³³³ and St Mungo's, which

³²⁸ Table 782: Household types in temporary accommodation, Households in temporary accommodation at the end of the quarter by type of household, England, 2006 Q2 to 2017 Q4: <https://www.gov.uk/government/statistical-data-sets/live-tables-on-homelessness#homelessness-summary-local-authority-level-tables> [accessed 29 April 2018].

³²⁹ Welsh Government, 2017, available at: <http://gov.wales/docs/statistics/2017/170727-homelessness-2016-17-en.pdf> [accessed 29 April 2018].

³³⁰ Crisis (2017), Homelessness Projections: Core homelessness in GB, Available at: https://www.crisis.org.uk/media/237582/crisis_homelessness_projections_2017.pdf [accessed: 20 November 2017].

³³¹ Table 2a: Street counts and estimates of rough sleeping, by local authority district, region and gender of rough sleepers, Rough sleeping statistics England autumn 2017: tables 1, 2a, 2b and 2c <https://www.gov.uk/government/statistical-data-sets/live-tables-on-homelessness#homelessness-summary-local-authority-level-tables> [accessed 29 April 2018].

³³² Nia project (2016), 'Written evidence to the Housing, Communities and Local Government Committee'. Available at: <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/housing-communities-and-local-government-committee/homelessness/written/28235.html> [accessed: 29 April 2018].

³³³ Women in Prison (2016), 'Written evidence to the Housing, Communities and Local Government Committee'. Available at: <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/housing-communities-and-local-government-committee/homelessness/written/28554.html> [accessed: 29 April 2018].

provides support to homeless people, shared evidence that 44% of its female clients had experienced domestic abuse.³³⁴

Women face a range of other housing issues related to their socio-economic status or identification with other protected characteristics. In 2013, the UK Government introduced the 'spare room subsidy', when tenants have their housing benefit reduced if they have spare bedrooms. In 2013 the UN Special Rapporteur on adequate housing called for the removal of the subsidy, due to its negative impact on vulnerable people.³³⁵ The Supreme Court found in 2016 that this was discriminatory to disabled people, but dismissed the claim of a woman survivor of domestic violence who had a 'safe room' in her home.³³⁶ The case has been appealed to the European Court of Human Rights.³³⁷

The lack of residential and transit accommodation across Great Britain routinely affects Gypsy and Traveller women's right to an adequate standard of living. Planning policy changes in England restrict the definition of a Gypsy or Traveller to exclude those who have permanently ceased travelling.³³⁸ The Department for Communities and Local Government recognised in its consultation on these changes that they would particularly affect 'women who have ceased to travel in order to care for dependents'.³³⁹ There is evidence to suggest that this has led to an increase in

³³⁴ St Mungo's (2016), 'Written evidence to the Housing, Communities and Local Government Committee'. Available at: <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/housing-communities-and-local-government-committee/homelessness/written/28524.html> [accessed: 29 April 2018].

³³⁵ Office of the High Commissioner for Human Rights (2013), 'Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Raquel Rolnik: Mission to the United Kingdom of Great Britain and Northern Ireland'. Available at: http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Documents/A_HRC_25_54_Ad_d.2_ENG.DOC [accessed: 29 April 2018].

³³⁶ Bowcott, O. and Butler, P. (2016), 'Families win supreme court appeals over 'unfair' bedroom tax', *The Guardian*, 9 November. Available at: <https://www.theguardian.com/society/2016/nov/09/families-win-supreme-court-appeals-over-unfair-bedroom-tax-jacqueline-carmichael> [accessed: 29 April 2018].

³³⁷ See: [https://hudoc.echr.coe.int/eng#{"itemid":\["001-180633"\]}](https://hudoc.echr.coe.int/eng#{) [accessed: 6 June 2018].

³³⁸ See EHRC (2016), 'Race rights in the UK: Submission to the UN Committee on the Elimination of Racial Discrimination in advance of the public examination of the UK's implementation of ICERD'. Available at: https://www.equalityhumanrights.com/sites/default/files/race-rights-in-the-uk-july-2016_0.pdf [accessed: 22 August 2016]. The Housing (Wales) Act 2014 places a duty on local authorities to provide sites for Gypsies and Travellers where a need has been assessed and identified. See: <http://www.legislation.gov.uk/anaw/2014/7/contents> [accessed: 22 August 2016].

³³⁹ Department for Communities and Local Government (2014), 'Consultation: planning and Travellers: equalities statement'. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/354062/Equalities_Statement_publication_format_140905.pdf [accessed: 21 April 2016].

unauthorised encampments in England.³⁴⁰ Planning objections from local councillors and residents, often stigmatising, are the most common barrier to adequate site provision.³⁴¹

Recommendations

The EHRC recommends that the UK and Welsh governments should:

- improve data collection on homelessness across the UK to more accurately reflect estimated prevalence and include breakdowns by protected characteristic group, and
- take immediate measures to address the significant increase in homelessness, and ensure that there are sufficient resources to implement effective women-specific initiatives and to provide adequate reception facilities, such as emergency shelters and hostels, as well as social rehabilitation centres.

The EHRC recommends that the UK Government should:

- replace the current Traveller definition in the Planning Policy for Traveller Sites with the more inclusive one in the Housing Act 2004, and reintroduce the duty on local authorities to provide sites for Gypsies and Travellers, as was previously required under the Caravan Sites Act 1968 and as is required in Wales under the Housing (Wales) Act 2014, and
- reconsider the 'spare room subsidy' regulations, which discriminate against survivors of domestic abuse who have 'safe rooms'.

³⁴⁰ Ministry of Housing, Communities and Local Government (2018), 'Housing statistical release: count of Traveller caravans July 2017 England'. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/674055/Traveller_caravan_count_July_2017_revised.pdf [accessed: 29 April 2018].

³⁴¹ EHRC (2014), 'Response of the Equality and Human Rights Commission to the Department for Communities and Local Government's Consultation – "Ensuring fairness in the planning system", November 2014'. Available at: <https://www.equalityhumanrights.com/en/legal-responses/consultation-responses> [accessed: 24 August 2016].

8. Just and fair conditions of work:

relates to articles 2, 5 and 11, CO paragraphs 47.a-d, 49, 59.b and 61.a and SDGs 4, 5, 8 and 9

Women in work

In December 2017 to February 2018, the overall employment rate for women was 71%, compared to 79.8% for men.³⁴² While the employment rate for women in Great Britain has increased in recent years, there are some significant differences. The employment rate also varies significantly when factoring in other protected characteristics. For example, only 32.3% of Bangladeshi women were in employment in October to December 2017.

Meanwhile, just over half (54.5%) of disabled people were economically active in April to June 2017; this rate was lower for women (52.8%) than men (56.8%).³⁴³ Our research has also shown rates differ significantly according to the type of impairment.³⁴⁴

There are also concerns around women's insecure employment, participation in the 'gig economy'³⁴⁵ and employment under zero-hours contracts.³⁴⁶ Women make up

³⁴² ONS (2018). 'UK labour market: April 2018'. Available at: <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/bulletins/uklabourmarket/april2018#employment> [accessed: 18 May 2018].

³⁴³ Economically active people are those aged 16 and over who are either in employment or unemployed. Those classed as economically inactive are people aged 16 and over without a job who have not sought work in the last four weeks and/or are not available to start work in the next two weeks. Data is for those aged 16-64, using the Equality Act 2010 definition of disability. ONS (2017), 'Labour market status of disabled people'. Available at: <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/datasets/labourmarketstatusofdisabledpeoplea08> [accessed: 1 March 2018].

³⁴⁴ Equality and Human Rights Commission (2017), 'Research report 107: the disability pay gap'. Available at: <https://www.equalityhumanrights.com/en/publication-download/research-report-107-disability-pay-gap> [accessed: 29 April 2018].

³⁴⁵ While there is no agreed definition of a 'zero-hours contract', it is generally understood to be a contract between an employer and a worker where the employer is not obliged to provide minimum working hours and the worker is not obliged to accept any work offered.

³⁴⁶ Equality and Human Rights Commission (2018), 'Progress on socio-economic rights in Great Britain: update report on Great Britain's implementation of the International Covenant on Economic, Social and Cultural Rights'. Available at: <https://www.equalityhumanrights.com/en/publication-download/progress-socio-economic-rights-great-britain> [accessed: 29 April 2018].

the majority of the 901,000 people in the UK employed on zero-hours contracts in October to December 2017.³⁴⁷ New evidence backs persistent concerns about the decency of work and non-discriminatory access to employment.^{348 349}

Caring responsibilities

It is still commonplace for women to bear the majority of domestic work and caring responsibilities, a contribution that is often unseen, undervalued and, in some cases, increasing.³⁵⁰ ONS estimates the value of unpaid childcare at £132.4bn, 69% of which is accounted for by women. The estimated value of unpaid adult care is £7.97bn, with 59% accounted for by women.³⁵¹ This can have major implications for the living standards³⁵² and mental and physical health of carers. A study by the University of Manchester showed that around 85 carers a year died by suicide in the UK between 2011 and 2015, around half of whom were female.³⁵³

The high cost of childcare can be prohibitive. New analysis by the Trades Union Congress (TUC) revealed that while real wages fell in England between 2008 and 2016, childcare costs rose by 48% over the same period.³⁵⁴ The UK and Welsh

³⁴⁷ Office for National Statistics (2018) 'People in employment on zero hours contracts'. Available at: <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/datasets/emp17peopleinemploymentonzerohourscontracts> [accessed: 1 February 2018].

³⁴⁸ See also Department for Business, Energy & Industrial Strategy (2017), 'Good Work - Matthew Taylor Review of Modern Working Practices', p. 26. Available at: <https://www.gov.uk/government/publications/good-work-the-taylor-review-of-modern-working-practices> [accessed: 18 December 2017]; EHRC (2016), 'Written submission to the Taylor Review of Employment Practices in the Modern Economy: Future world of work and rights of workers'. Available at: <https://www.equalityhumanrights.com/sites/default/files/ehrc-written-submission-taylor-review-26-april-2016.docx> [accessed: 18 January 2018].

³⁴⁹ Academic literature identifies different models of gig work, but in all cases the digital platform links the customer requiring a service with an individual labour provider, on terms determined by the platform. House of Commons Work and Pensions Committee (2017), 'Self-employment and the gig economy, thirteenth report of session 2016-17'. Available at: <https://www.publications.parliament.uk/pa/cm201617/cmselect/cmworpen/847/847.pdf> [accessed: 18 January 2018].

³⁵⁰ On average, women over 50 have increased the amount of time devoted to unpaid caring of adults by 21% between 2000 and 2015. ONS. 2016. *Changes in the value and division of unpaid care work in the UK: 2000 to 2015*. [ONLINE]. Available at: <https://www.ons.gov.uk/economy/nationalaccounts/satelliteaccounts/articles/changesinthevalueanddivisionofunpaidcareworkintheuk/2000to2015> [accessed: 29 April 2018].

³⁵¹ Ibid.

³⁵² New Policy Institute (2016), 'Informal carers and poverty in the UK'. Available at: https://www.npi.org.uk/files/2114/6411/1359/Carers_and_poverty_in_the_UK_-_full_report.pdf [accessed: 29 April 2018].

³⁵³ The Healthcare Quality Improvement Partnership (2017), 'National confidential inquiry into suicide and homicide by people with mental illness'. Available at: <http://research.bmh.manchester.ac.uk/cmhs/research/centreforsuicideprevention/nci/reports/2017-report.pdf> [accessed: 29 April 2018].

³⁵⁴ This is four times as much as the rise in average wages of those with a one-year-old child.

governments have extended their free childcare, though the availability and implementation of this is different in each country.³⁵⁵ In 2016, the Welsh Government published a five-year plan³⁵⁶ committing itself to improving job opportunities, which includes a focus on childcare. We have previously highlighted that childcare provision in Wales is patchy.³⁵⁷

In practice, parents in England are often not able to access the new entitlement of an additional 15 hours of free childcare for parents working over 16 hours per week because childcare providers say UK Government funding is not sufficient to cover the costs. Some providers have opted out of the scheme; others expect parents to make up the shortfall.³⁵⁸

A 2016 study suggested that extending the provision of good quality, flexible, subsidised childcare across the working year would be the biggest single contributor to reducing poverty. It would also enable women to be more likely to work, to work increased hours, or to work in roles requiring a higher level of skill and responsibility.³⁵⁹

Parental leave

Encouraging parents to share childcare responsibilities more equally would reduce the impact on women's careers and pay, and ensure fathers have the opportunity to

TUC (2017), 'TUC highlights "childcare gap" for parents with one-year-olds'. Available at: <https://www.tuc.org.uk/news/cost-childcare-has-risen-four-times-faster-wages-2008-says-tuc> [accessed: 2 January 2017]. See also: Joseph Rowntree Foundation (2017),

<https://www.jrf.org.uk/data/childcare-costs> and <https://www.jrf.org.uk/press/working-parents-hit-living-standards-ceiling-due-high-childcare-costs> [both accessed: 31 January 2018].

³⁵⁵ In Wales, parents can access 30 hours of free childcare for 48 weeks of the year; in England, 30 hours of free childcare for 38 weeks of the year. Family and Childcare Trust. 2017. *Help with my childcare costs*. [ONLINE]. Available at: <https://www.familyandchildcaretrust.org/help-your-childcare-costs?gclid=CJk08jjodMCFe0Q0wod7v8AyA> [accessed: 23 June 2017]

³⁵⁶ Welsh Government (2016), 'Taking Wales forward 2016-2021'. Available at: <http://gov.wales/about/programme-for-government/?lang=en> [accessed: 18 January 2018].

³⁵⁷ See: <https://www.equalityhumanrights.com/en/file/18736/download?token=VJ6vr2ia> [accessed: 20 May 2018].

³⁵⁸ Pre-school Learning Alliance (2018), 'Parents are paying to access "free childcare" offer, survey finds'. Available at: <https://www.pre-school.org.uk/news/2018/01/parents-are-paying-access-free-childcare-offer-survey-finds> [accessed: 2 February 2018]. See also <https://www.theguardian.com/education/2017/aug/27/uk-nurseries-30-hours-free-childcare-parents-providers-think-again> and <http://www.bbc.co.uk/news/education-32957950> [both accessed: 2 February 2018].

³⁵⁹ Bramley, G., Leishman, C. M., Cosgrove, P. J., and Watkins, D. (2016), '[What would make a difference? Modelling policy scenarios for tackling poverty in the UK](#)'. Joseph Rowntree Foundation (JRF) [accessed: 22 June 2017].

involve themselves more in day-to-day child rearing.³⁶⁰ In principle, paternity pay³⁶¹ and the introduction of shared parental leave³⁶² mean this is possible.

A survey of parents and businesses suggested, however, that just 1% of men had taken up shared parental leave, and that parents considered their relative earning potential and the financial impact when deciding who should care for their children.³⁶³ Statutory maternity and paternity pay is much lower than the National Minimum Wage (NMW) or National Living Wage (NLW), and pay for fathers is lower than that for mothers.³⁶⁴ In addition, flexible working rights are restricted to employees with over 26 weeks' service.³⁶⁵

Two factors seem to encourage men's involvement in childcare and reduce the impact on women's careers of being the sole carer: more generous paternity leave, and more affordable childcare.³⁶⁶ Evidence has shown that countries with effective paternity leave policies are often those that offer well-paid, flexible but non-transferable policies.³⁶⁷ A UK Government review of shared parental leave is planned for 2018.

³⁶⁰ House of Commons Women and Equalities Select Committee (2016), 'Gender pay gap: what would encourage fathers to do more childcare?'. Available at: <https://www.parliament.uk/business/committees/committees-a-z/commons-select/women-and-equalities-committee/news-parliament-2015/gender-pay-gap-evidence-15-161/> [accessed: 22 June 2017]

³⁶¹ See: <https://www.gov.uk/paternity-pay-leave> [accessed: 20 May 2018].

³⁶² See: <https://www.gov.uk/shared-parental-leave-and-pay> [accessed: 20 May 2018].

³⁶³ [My Family Care](#) and [Women's Business Council](#) (2016), 'Shared parental leave - one year on - Where are we now? A survey of over 1000 parents and 200 businesses'. Available at: <https://www.myfamilycare.co.uk/resources/news/> [accessed: 22 June 2017].

³⁶⁴ In 2017/8, mothers were paid 90% of actual salary (with no cap) for the first six weeks of maternity leave, compared with paternity pay and shared parental pay (both £140.98 a week or 90% of average weekly earnings, whichever is lower). See <https://www.gov.uk/guidance/rates-and-thresholds-for-employers-2017-to-2018> [accessed: 6 June 2018]. In addition, many employers who pay enhanced contractual maternity pay do not pay more than statutory shared parental pay. In two recent appeals to the Employment Appeals Tribunal (*Ali v Capita Customer Management Ltd* and *Hextal v Chief Constable of Leicestershire Police*) two male claimants have challenged their employers on this point, alleging that this amounts to sex discrimination. Judgment is awaited. See: <http://www.cloisters.com/latest/appeal-court-to-scrutinise-legality-of-enhanced-shared-parental-pay> [accessed: 6 June 2018].

³⁶⁵ Acas. *The right to request flexible working*. [ONLINE]. Available at: <http://www.acas.org.uk/index.aspx?articleid=1616> [accessed: 29 April 2018].

³⁶⁶ Equality and Human Rights Commission (2017), 'Fair opportunities for all: a strategy to reduce pay gaps in Britain'. Available at: <https://www.equalityhumanrights.com/sites/default/files/pay-gaps-strategy-fair-opportunities-for-all.pdf> [accessed: 29 April 2018].

³⁶⁷ Organisation for Economic Co-operation and Development (2016), 'Parental leave: Where are the fathers?' Available at: <https://www.oecd.org/policy-briefs/parental-leave-where-are-the-fathers.pdf> [accessed: 29 April 2018].

Recommendations

The EHRC recommends that the UK and Welsh governments should:

- monitor, and improve through concrete steps, women's access to secure employment with just and fair conditions, including for groups with comparatively low employment rates such as ethnic minority women and disabled women
- address the problems with the availability and affordability of properly regulated childcare, including by ensuring adequately funded, flexible and high-quality childcare for all children, and monitor the impact different models of provision have on women's labour market participation, and
- encourage men and women to share caring responsibilities on an equal basis.

The EHRC recommends that the UK Government should:

- introduce dedicated non-transferable 'use it or lose it' parental leave for fathers with a pay rate that acts as a real incentive to take-up, and
- legislate to extend the right to request flexible working to apply from day one in all jobs, unless there is a genuine business reason that means that this is not possible.

Discrimination and harassment in the workplace

Recent high-profile testimonies have shown pervasive sexual harassment in contexts as diverse as Hollywood and Westminster, and highlighted the barriers that many people experience in reporting it. However, no workplace is immune. Between December 2017 and February 2018, we conducted qualitative research, gathering evidence from 750 individuals who had experience of sexual harassment at work, and from 234 employers about their experience of addressing sexual harassment in the workplace.³⁶⁸

Through the responses from individuals we found that:

- nearly all of the individuals who had experienced sexual harassment were women
- the most common perpetrator of harassment was a senior colleague, though just under a quarter reported being harassed by customers, clients or service users (mainly in the hospitality industry), and

³⁶⁸ EHRC (2018), 'Turning the tables: ending sexual harassment at work'. Available at: <https://www.equalityhumanrights.com/en/publication-download/turning-tables-ending-sexual-harassment-work> [accessed: 29 April 2018].

- around half had not reported their experience, and of those who did, half said that employers took no action as a result. Many others said they faced negative consequences from reporting.

The majority of employers told us they had a sexual harassment policy, and around two-thirds had provided training to line managers. However, less than a third of the employers evaluated the effectiveness of their policies, only a small number took a proactive approach to encourage reporting and prevent victimisation, and only around one-quarter provided information for customers or service users on appropriate behaviour towards staff.

Pregnancy and maternity discrimination

In July 2015, the EHRC and the then Department for Business, Innovation and Skills (BIS) published a report on pregnancy and maternity-related discrimination at work in Great Britain.³⁶⁹ The research found that 11% of mothers reported that they were forced to leave their job (they were dismissed, made compulsorily redundant or treated so poorly that they felt they had to leave); equivalent to 54,000 women every year.

The research also found that:

- 77% of mothers said they had a negative or possibly discriminatory experience during pregnancy, maternity leave and/or on return from maternity leave.
- 20% said they had experienced harassment or negative comments related to pregnancy or flexible working from their employer and/or colleagues.
- 41% felt there was a risk to, or impact on, their health or welfare. This included: not being allowed to work flexibly or take breaks when they had asked to (15%); and being discouraged from attending antenatal appointments during work time (10%).
- 51% said as a direct result of having a flexible working request approved they experienced unfavourable treatment as a result.³⁷⁰

³⁶⁹ EHRC (2016), 'Pregnancy and maternity-related discrimination and disadvantage. Summary of key findings: surveys of employers and mothers'. Available at: <https://www.equalityhumanrights.com/en/publication-download/pregnancy-and-maternity-related-discrimination-and-disadvantage-first-findings> [accessed: 29 April 2018].

³⁷⁰ Ibid.

Following this research, we identified six areas for action to tackle this discrimination³⁷¹ and the UK Parliament's Women and Equalities Select Committee launched an inquiry into the issue. The Committee called on the UK Government to publish an ambitious, detailed plan within the next two years or risk a further rise in pregnant women and mothers being forced out of their work.³⁷²

Recommendations

The EHRC recommends that the UK Government should:

- introduce a mandatory duty on employers to take reasonable steps to protect workers from harassment and victimisation in the workplace
- introduce a statutory code of practice on sexual harassment and harassment at work, specifying the steps that employers should take to prevent and respond to sexual harassment, and which can be considered in evidence when determining whether the mandatory duty has been breached, and
- amend the Equality Act 2010 to prohibit employers asking job applicants questions related to pregnancy and maternity, with a breach enforceable by the EHRC.

The EHRC recommends that the UK and Welsh governments should:

- ensure that women have access to employment advice services, particularly in relation to sexual harassment and the rights of pregnant women and new mothers.

³⁷¹ These are:

1. Leadership for change – so that employers attract the best talent, create the conditions for their staff to perform well, and avoid the loss of skills and experience that can result from misconceptions and poor practice in relation to pregnant workers and new mothers.

2. Improving employer practice – to promote family-friendly workplaces, effective management and open communication.

3. Improving access to information and advice – so that women and employers understand their rights and obligations.

4. Improving health and safety management in the workplace – so that employers manage risks effectively and women are not forced to choose between their job and their health or the health of their unborn child.

5. Improving access to justice – by removing barriers to women raising complaints.

6. Monitoring progress – to track the pace of change towards creating fairer workplaces.

³⁷² House of Commons Women and Equalities Committee (2016), 'Pregnancy and maternity discrimination: first report of session 2016–17'. Available at:

<http://www.publications.parliament.uk/pa/cm201617/cmselect/cmwomeq/90/90.pdf> [accessed: 20 May 2018].

Occupational segregation

Women in the UK continue to be over-represented in low-pay occupations, particularly in the 'five Cs': roles focused on caring, cashiering, cleaning, catering and clerical. For example, 2,348,000 women were employed in administrative and secretarial occupations in April to June 2017, compared with 795,000 men. Whereas 1,869,000 men were employed in skilled trades occupations, compared with 231,000 women.³⁷³

The roles women are over-represented in are important for the functioning and productivity of the economy and we rely heavily on care workers, classroom assistants, and childcare workers, for example, to support people in and out of work. Yet the value placed on these jobs is low, linked to the undervaluing of work where women predominate. Subject and career choice has a significant impact on this kind of gender segregation (see pages 100-102). The roles women are concentrated in tend to be poorly paid, with few opportunities for training and progression, and are a significant contributing factor to the gender pay gap.³⁷⁴

Women are also more likely than men to be working in the public sector. Around two-thirds of all public sector employees and nine out of 10 part-time public sector employees are women.³⁷⁵ This has made them particularly vulnerable to the impact of major reductions in public spending and cuts in public sector employment.³⁷⁶

In Wales, the Women Adding Value to the Economy (WAVE) programme, completed in June 2015, sought to help employers understand how the various forms of gender segregation combine to produce organisational gender pay gaps. The programme also addressed gender segregation issues in training and self-employment, through networking and mentoring schemes and targeted courses.³⁷⁷

³⁷³ ONS (2017), 'Employment by occupation'. Available at: <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/datasets/employmentbyoccupationemp04> [accessed: 20 May 2018].

³⁷⁴ Women's Budget Group (2017), 'Women, employment and earnings'. Available at: <https://wbg.org.uk/wp-content/uploads/2017/11/employment-pre-budget-nov-2017-final.pdf> [accessed: 22 January 2018].

³⁷⁵ ONS (2015), 'Public sector employment by gender'. Available at: <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/publicsectorpersonnel/adhocs/004849publicsectoremploymentbygender> [accessed: 22 January 2018].

³⁷⁶ Women's Budget Group (2017), 'Women, employment and earnings'. Available at: <https://wbg.org.uk/wp-content/uploads/2017/11/employment-pre-budget-nov-2017-final.pdf> [accessed: 22 January 2018].

³⁷⁷ See: <https://www.cardiff.ac.uk/research/explore/research-units/women-adding-value-to-the-economy-wave> [accessed: 7 June 2018].

In 2016, the Welsh Government published a five-year plan³⁷⁸ committing itself to taking action in a number of areas to improve job opportunities, which will indirectly address occupational segregation, particularly in lower-paid occupations. The Welsh Government's strategic equality plan for 2016 to 2020 also contains a number of equality objectives that will indirectly address occupational segregation.³⁷⁹

Segregation within apprenticeships

Apprenticeships offer a valuable access route to employment, providing on-the-job training and qualification. Ensuring all groups are fairly represented across apprenticeships in different sectors and at different levels will help address the inequalities related to vertical and horizontal segregation, including pay gaps.³⁸⁰

Analysis by the Young Women's Trust (YWT) shows that the apprenticeship system is reinforcing gender inequalities in the workforce, funnelling young women into low-paid sectors. For example:

- Women account for 94% of childcare apprentices but only 4% of engineering apprentices.
- In 2014 there were 74 men starting an apprenticeship in plumbing for every woman.³⁸¹

In Wales, women made up 60% of the 48,900 apprenticeships in 2016/7. Within construction and engineering programmes, there were only 370 female apprentices compared to 8,460 males, and in healthcare and public services programmes there were 2,895 male apprentices compared to 15,270 females.³⁸²

Female apprentices are also paid less on average per hour than male apprentices, report receiving less training, and are more likely to be out of work at the end of their

³⁷⁸ Welsh Government (2016), 'Taking Wales forward 2016-2021'. Available at: <http://gov.wales/about/programme-for-government/?lang=en> [accessed: 18 January 2018].

³⁷⁹ These include a commitment to identify and reduce the causes of employment, skills and pay inequalities related to gender, ethnicity, age and disability. Welsh Government (2016), 'Welsh Government strategic equality plan 2016-2020'. Available at: <http://gov.wales/about/cabinet/cabinetstatements/2016-new/equality/?lang=en> [accessed: 18 January 2018].

³⁸⁰ EHRC (2017), 'Fair opportunities for all: A strategy to reduce pay gaps in Britain'. Available at: <https://www.equalityhumanrights.com/sites/default/files/pay-gaps-strategy-fair-opportunities-for-all.pdf> [accessed: 22 January 2018].

³⁸¹ Young Women's Trust (2016), 'Making apprenticeships work for young women'. Available at: https://www.youngwomenstrust.org/assets/0000/2906/Making_Apprenticeships_Work_for_Young_Women.pdf [accessed: 20 January 2018].

³⁸² Welsh Government, (2018), 'Learning programmes for foundation apprenticeships, apprenticeships and higher apprenticeships statistics'. Available at: <https://stats.wales.gov.wales/Catalogue/Education-and-Skills/Post-16-Education-and-Training/Further-Education-and-Work-Based-Learning/Lifelong-Learning-Wales-Record/learningprogrammesapprenticeships> [accessed: 20 January 2018].

apprenticeship. A poll for the YWT found that 7% of young women said they received no training at work, compared with 4% of young men. In addition, 23% of young women said they received no training outside of work, compared with 12% of young men.³⁸³

The UK and Welsh governments have plans to increase the overall number of apprenticeships. The UK Government has committed to delivering three million new apprenticeships in England by 2020.³⁸⁴

Recommendations

The EHRC recommends that the UK and Welsh governments should:

- take steps to tackle women's persistent occupational segregation in typically low-paid roles and sectors
- ensure high-quality apprenticeships to reduce women's employment gaps and occupational segregation, and
- consider ways to improve the participation and progression rates of under-represented groups in apprenticeships and set aspirational targets.

Pay

Pay gaps

In 2017 in the UK, the difference in average (median) hourly pay between men and women overall was 18.4%.³⁸⁵ This figure includes those employed both full time and part time. The difference in average (median) hourly pay between men and women in full-time work was 9.1%.³⁸⁶ The pay gap increases for older women, particularly those in their forties, and for women who have children.

³⁸³ Young Women's Trust (2016), 'Making apprenticeships work for young women'. Available at: https://www.youngwomenstrust.org/assets/0000/2906/Making_Apprenticeships_Work_for_Young_Women.pdf [accessed: 22 January 2018].

³⁸⁴ Department for Business, Energy & Industrial Strategy (2017), 'Industrial strategy: building a Britain fit for the future'. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/664563/industrial-strategy-white-paper-web-ready-version.pdf [accessed: 22 January 2018].

³⁸⁵ The median is preferred to the mean by the ONS because the median is not affected by extreme values, such as the changes to earnings of small numbers of very high earners.

³⁸⁶ Office for National Statistics (2017), 'Annual survey of hours and earnings'. Available at: <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/annualsurveyofhoursandearnings/2017provisionaland2016revisedresults> [accessed: 4 January 2018].

Our analysis of the overall gender pay gap found that this is driven primarily by the large numbers of women working in low-paid, part-time work, often with few opportunities for progression.³⁸⁷ In a 2016 inquiry, the Women and Equalities Committee stated that 'the Government does not have a coherent strategy to address the issues'.³⁸⁸

Our 2017 research showed that, compared with White British women, the pay gap was particularly wide for Pakistani and Bangladeshi immigrant women.³⁸⁹ The difference in pay between disabled women and non-disabled women varied significantly according to the type of impairment, ranging from 4.3% to 18.9%.³⁹⁰ We have published a strategy for reducing gender, ethnicity and disability pay gaps.³⁹¹ It recommends that the UK and devolved governments, and employers, take action across six key areas.³⁹²

The Equality Act 2010 (Gender Pay Gap Information) Regulations 2017, which apply to private and voluntary sector employers in England, Scotland and Wales, came into force in April 2017. The Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017, which apply to all public sector employers in Great Britain listed in Schedule 2 to the regulations, also came into force in March 2017.³⁹³ The regulations require employers with 250 or more employees to publish prescribed

³⁸⁷ Brynin, M. (2017), 'The gender pay gap. EHRC Research Report no. 109'. Available at: <https://www.equalityhumanrights.com/en/publication-download/research-report-109-gender-pay-gap> [accessed: 5 January 2018].

³⁸⁸ Women and Equalities Select Committee. (2016), 'Gender pay gap: second report of session 2015–16', p. 5. Available at: <https://publications.parliament.uk/pa/cm201516/cmselect/cmwomeq/584/584.pdf> [accessed: 6 December 2017].

³⁸⁹ Longhi, S. and Brynin, M. (2017), 'The ethnicity pay gap. EHRC Research Report no. 108'. Available at: <https://www.equalityhumanrights.com/en/publication-download/research-report-108-ethnicity-pay-gap> [accessed: 17 August 2017].

³⁹⁰ Longhi, S. (2017), 'The disability pay gap. EHRC Research Report no. 107'. Available at: <https://equalityhumanrights.com/en/publication-download/research-report-107-disability-pay-gap> [accessed: 20 May 2018].

³⁹¹ EHRC (2017), 'Fair opportunities for all – a strategy to reduce pay gaps in Britain'. Available at: <https://www.equalityhumanrights.com/en/publication-download/fair-opportunities-all-strategy-reduce-pay-gaps-britain> [accessed: 5 January 2018].

³⁹² The six recommendations were:

- 1) Unlock the earning potential of education.
- 2) Ensure better access for all to jobs that deliver fair rewards.
- 3) Implement flexibility in all jobs at all levels.
- 4) Deliver more equal sharing of childcare between mothers and fathers.
- 5) Reduce bias in recruitment, promotion and pay decisions; and increase diversity in senior roles.
- 6) Monitor the effectiveness of mandatory gender pay gap reporting.

³⁹³ The Equality Act 2010 (Gender Pay Gap Information) Regulations 2017 and the Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017: These provide that, by 4 April 2018 (and thereafter annually), all qualifying organisations in the private and voluntary sectors and, by 30 March 2018, all qualifying public sector organisations must publish proscribed gender pay gap data about employees as defined under s.83 of the Equality Act 2010, which includes apprentices and workers who have a contract personally to do work. See: <https://www.equalityhumanrights.com/en/advice-and-guidance/gender-pay-gap-reporting#when> [accessed: 27 July 2017].

information about their gender pay gap. In Wales, further specific duties apply in relation to public sector employers. Employers have also been asked to consider publishing a narrative to help employees understand the information, however this is not mandatory. The EHRC is responsible for enforcing these regulations and will take action against employers who do not comply with them.

Equal pay

Equal pay, as set out in the EA 2010, means that men and women in the same employment performing equal work must receive equal pay. This applies not only to salary, but to all contractual terms and conditions of employment, such as holiday entitlement, bonuses, pay and reward schemes, pension payments and other benefits. A recent review into sex discrimination in the UK by the Fawcett Society identified three key challenges to the efficacy of this provision:

- a lack of transparency and the need to secure women's access to pay information so that they are able to challenge unequal pay effectively
- the responsibility of employers to regulate pay structures so as to reduce and avoid inequalities, and
- effective procedures for the resolution of claims once they are made.³⁹⁴

Recent high-profile equal pay complaints against the BBC have prompted action by the EHRC, which has stated that this 'raises questions about the differences in how we view and reward female and male talent'.³⁹⁵

Low pay

In April 2017, provisional estimates were that 342,000 jobs in the UK paid less than the NMW or NLW to employees aged 16 and over.³⁹⁶ Women held 64.6% of these low-paid jobs.³⁹⁷ The UK Government introduced the new NLW in April 2016 with the

³⁹⁴ Fawcett Society (2018), 'Sex discrimination law review', available at: <https://www.fawcettsociety.org.uk/Handlers/Download.ashx?IDMF=e473a103-28c1-4a6c-aa43-5099d34c0116> [accessed: 29 April 2018].

³⁹⁵ See: <https://equalityhumanrights.com/en/our-work/news/bbc-talent-pay-disclosure> [accessed: 21 May 2018].

³⁹⁶ The National Minimum Wage is the minimum pay per hour almost all workers are entitled to, and differs by age. The National Living Wage is the minimum pay per hour almost all workers over 25 are entitled to. See: <https://www.gov.uk/national-minimum-wage> [accessed: 29 April 2018].

³⁹⁷ Office for National Statistics (2017), 'Jobs paid below minimum wage by category'. Available at: <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/dataset/s/jobspaidbelowminimumwagebycategory> [accessed: 1 March 2018].

intention of increasing it to 60% of median earnings by 2020.³⁹⁸ This has had a positive statistical effect on women's earnings, showing a fall in the percentage of women on low pay from 25.2% in 2015 to 23.4% in 2016.³⁹⁹ However, low-paid people have not necessarily noticed a positive effect on their standard of living as a result of this pay increase.⁴⁰⁰ Furthermore, organisations such as the Living Wage Foundation have highlighted that the rate falls short of a 'real' living wage.⁴⁰¹

Recommendations

The EHRC recommends that the UK Government should:

- enforce the National Living Wage and monitor and report on the impact of NWL on women's pay and standard of living, and consider increasing the level at which NWL is paid, and
- make it mandatory for employers to publish a narrative with their gender pay gap data to help employees and the public understand the factors underlying the gender pay gap and focus on how to make substantive improvements to the workplace for women.

The EHRC recommends that the UK and Welsh governments should:

- develop national action plans to close gender, disability and ethnicity pay gaps, and report regularly on progress.

³⁹⁸ Pyper, D. (2018), 'The National Minimum Wage: rates and enforcement'. House of Commons Briefing Paper no. CBP06898. Available at: <http://researchbriefings.files.parliament.uk/documents/SN06898/SN06898.pdf> [accessed: 1 March 2018].

³⁹⁹ D'Arcy, C. (2017), 'Low pay in Britain 2017'. Resolution Foundation. Available at: <http://www.resolutionfoundation.org/publications/low-pay-britain-2017/> [accessed: 5 January 2018].

⁴⁰⁰ Low pay here is defined as below the National Minimum Wage. D'Arcy, C. (2017), 'Low pay in Britain 2017'. Resolution Foundation. Available at: <http://www.resolutionfoundation.org/publications/low-pay-britain-2017/> [accessed: 5 January 2018].

⁴⁰¹ See: <https://www.livingwage.org.uk/what-real-living-wage> [accessed: 5 January 2018].

9. Highest attainable standard of health: relates to articles 12 and 16, CO paragraphs 53.a-b and 61.a and SDGs 3 and 5

Mental and physical health

Women across the UK continue to live longer than men although their 'healthy life expectancy'⁴⁰² has decreased.⁴⁰³ Regional disparities show women living in more affluent southern regions of England are expected to live longer, and with fewer years in poor health, than those further north where there is a higher degree of deprivation.⁴⁰⁴ The life expectancy of women living in Wales is below that of women in England, and around 12 years separates the highest and lowest healthy life expectancies for women in Wales.⁴⁰⁵

Women with particular protected characteristics have different health outcomes.⁴⁰⁶ For example, the probability of Black African women being detained under the Mental Health Act is more than seven times higher than for White British women.⁴⁰⁷ White British and Irish women are over-represented among alcohol-specific hospital admissions, and women born in Central and Western Africa have

⁴⁰² Healthy life expectancy is an estimate of the number of years lived in 'very good' or 'good' general health, based on how individuals perceive their general health.

⁴⁰³ Office for National Statistics (2017), 'Statistical bulletin. Health state life expectancies, UK: 2014 to 2016'. Available at:

<http://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/healthandlifeexpectancies/bulletins/healthstatelifeexpectanciesuk/2014to2016/pdf> [accessed: 29 April 2018].

⁴⁰⁴ Public Health England (2017), 'Health profile for England'. Available at:

<https://www.gov.uk/government/publications/health-profile-for-england> [accessed: 29 April 2018].

⁴⁰⁵ 71.1 years in Gwynedd compared to 59.3 in Blaenau Gwent. See: Public Health Wales Observatory (2016), 'Measuring inequalities 2016: trends in mortality and life expectancy in Wales'. Available at: <http://www.publichealthwalesobservatory.wales.nhs.uk/measuring-inequalities-2016-files> [accessed: 29 April 2018].

⁴⁰⁶ This is despite the introduction of the Health and Social Care Act 2012, which created a legal duty for health professionals in England to have due regard to reducing health inequalities. See:

<http://www.legislation.gov.uk/ukpga/2012/7/contents/enacted> [accessed: 29 April 2018].

⁴⁰⁷ The Independent Commission on Acute Adult Psychiatric Care (2016), 'Old problems, new solutions: improving acute psychiatric care for adults in England'. Available at:

http://www.rcpsych.ac.uk/pdf/Old_Problems_New_Solutions_CAAPC_Report_England.pdf [accessed: 29 April 2018].

higher cancer mortality rates compared with England overall.⁴⁰⁸ Evidence suggests that bisexual- and lesbian-identified women have significantly worse mental health than heterosexual women.⁴⁰⁹ In 2017, we submitted a range of evidence to the Women and Equalities Select Committee outlining the poor health outcomes of Gypsies and Travellers; however, the ongoing lack of data makes it highly difficult to pinpoint the specific experiences of Gypsy and Traveller women.⁴¹⁰ The Committee has also highlighted that trans women face a range of significant problems in using general health services and accessing gender identity services.⁴¹¹ There is currently no transition-related healthcare provision in Wales. Trans people in Wales must travel to London to access services. The Welsh Government announced the creation of an adult gender identity service for Wales in August 2017.⁴¹² However, this is yet to be realised.

Age can also affect health outcomes. Evidence^{413 414} suggests that the mental health of young women and girls in both England and Wales has deteriorated over recent years. In Wales, 16% of women aged 16 and over are being treated for mental health conditions, compared to 10% of men.⁴¹⁵ Despite typically higher levels of

⁴⁰⁸ Public Health England (2017), 'Public Health Outcomes Framework: Health equity report: focus on ethnicity'. Available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/629563/PHOF_Health_Equity_Report.pdf [accessed: 29 April 2018].

⁴⁰⁹ Colledge, L., Hickson, F., Reid, D. and Weatherburn, P. (2015), 'Poorer mental health in UK bisexual women than lesbians: evidence from the UK 2007 Stonewall Women's Health Survey', *Journal of Public Health*, vol. 37, no. 3, pp. 427-37. Available at: <https://academic.oup.com/jpubhealth/article/37/3/427/2362743> [accessed: 29 April 2018].

⁴¹⁰ Equality and Human Rights Commission (2017), 'Written submission to the Women and Equalities Committee'. Available at: <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/women-and-equalities-committee/tackling-inequalities-faced-by-the-gypsy-roma-and-traveller-communities/written/46225.html> [accessed: 29 April 2018].

⁴¹¹ Women and Equalities Select Committee (2016), 'Transgender equality: first report of session 2015-16'. Available at: <https://www.parliament.uk/business/committees/committees-a-z/commons-select/women-and-equalities-committee/inquiries/parliament-2015/transgender-equality/> [accessed: 30 April 2018].

⁴¹² Welsh Government, 'Written statement: Improving adult gender identity services in Wales'. Available at: <https://gov.wales/about/cabinet/cabinetstatements/2018/genderidentityservices/?lang=en> [accessed: 17 May 2018].

⁴¹³ Mental Health Foundation (2017), 'The mental health of young women and girls: how to prevent a growing crisis'. Available at: <https://www.mentalhealth.org.uk/publications/mental-health-young-women-and-girls> [accessed: 29 April 2018].

⁴¹⁴ Mental Health Foundation, 'Mental health in Wales: fundamental facts 2016'. Available at: <https://www.mentalhealth.org.uk/sites/default/files/FF16%20Wales.pdf> [accessed: 29 April 2018].

⁴¹⁵ National Assembly for Wales, 'Research blog: gender equality indicators'. Available at: <https://seneddresearch.blog/2017/03/03/the-gender-gap-launch-of-gender-equality-indicators-for-wales/> [accessed: 29 April 2018].

treatment, difficulties persist for women and girls of all ages in accessing the mental health support they need.⁴¹⁶

In 2013, civil society organisations reported under CEDAW that gender-neutral healthcare policies and services masked the persistent discrimination women faced.⁴¹⁷ Where women do receive specific attention, it is not clear what the criteria have been for deciding whose needs are addressed. NHS England's 'five year forward view for mental health'^{418 419} focuses solely on women who are pregnant or are new mothers. Although these groups of women undoubtedly present a significant risk of suicide,⁴²⁰ there is no strategy in place in relation to other at-risk groups, such as women who self-harm^{421 422} and women who are carers.⁴²³ At a more local level, 2017 research showed that several clinical commissioning groups (CCGs) are not providing any specific mental health services for women except for those related to pregnancy and motherhood.⁴²⁴

⁴¹⁶ Women's Health and Equality Consortium (2016). 'Women's mental health and wellbeing: access to and quality of mental health services'. Available at: <http://www.whec.org.uk/wp-content/uploads/2016/09/Women%E2%80%99s-Mental-Health-and-Wellbeing-2016.pdf> [accessed: 29 April 2018].

⁴¹⁷ Women's Resource Centre (2013), 'Women's equality in the UK – a health check. Shadow report from the UK CEDAW Working Group assessing the United Kingdom Government's progress in implementing the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)'. Available at: http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/GBR/INT_CEDAW_NGO_GBR_13333_E.pdf [accessed: 29 April 2018].

⁴¹⁸ NHS England (2016), 'Independent Mental Health Taskforce: The five year forward view for mental health'. Available at: <https://www.england.nhs.uk/wp-content/uploads/2016/02/Mental-Health-Taskforce-FYFV-final.pdf> [accessed: 29 April 2018].

⁴¹⁹ NHS England. (2016), 'Implementing the five year forward view for mental health'. Available at: <https://www.england.nhs.uk/wp-content/uploads/2016/07/fyfv-mh.pdf> [accessed: 29 April 2018].

⁴²⁰ Department of Health (2017), 'Preventing suicide in England: third progress report on the cross-government outcomes strategy to save lives'. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/582117/Suicide_report_2016_A.pdf [accessed: 29 April 2018].

⁴²¹ University of Manchester (2017), 'Suicide by children and young people. National Confidential Inquiry into Suicide and Homicide by People with Mental Illness'. Available at: http://research.bmh.manchester.ac.uk/cmhs/research/centreforsuicideprevention/nci/reports/cyp_2017_report.pdf [accessed: 29 April 2018].

⁴²² A 2013 study published in the *BMJ* (available at: <http://bmjopen.bmj.com/content/bmjopen/3/11/e003444.full.pdf> [accessed: 6 June 2018]) also showed that self-harm was a major cause of presentation to hospitals and was linked to an elevated risk of early death.

⁴²³ University of Manchester (2017), 'The National Confidential Inquiry into Suicide and Homicide by People with Mental Illness. Annual report: England, Northern Ireland, Scotland and Wales'. Available at: <http://research.bmh.manchester.ac.uk/cmhs/research/centreforsuicideprevention/nci/reports/2017-report.pdf> [accessed: 29 April 2018].

⁴²⁴ Holly, J. (2017), 'Mapping the maze: services for women experiencing multiple disadvantage in England and Wales'. London: Agenda & AVA. Available at: <https://www.mappingthemaze.org.uk/wp/wp-content/uploads/2017/02/Mapping-the-Maze-final-report-for-publication.pdf> [accessed: 29 April 2018].

A National Assembly for Wales committee inquiry stated that more investment is needed to address variations in care experienced by women facing mental health conditions during pregnancy and after giving birth.⁴²⁵ The Welsh Government has taken some steps in recent years to improve perinatal care. The 'Together for mental health delivery plan 2016-19' aims to 'provide better outcomes for women, their babies and families with, or at risk of, perinatal mental health problems'.⁴²⁶

The delivery plan also aims 'to enable mental health professionals to have a greater understanding of the experience of domestic abuse and sexual violence', working with health boards to ensure consistency in the training provided.⁴²⁷ However, concerns remain about the mental health outcomes of women in Wales and improved services that take greater account of physical and mental health are required. The Welsh Government has an opportunity to do this in its response to the Independent Review of Health and Social Care in Wales.⁴²⁸

Recommendations

The EHRC recommends that the UK and Welsh governments should:

- set gender equality objectives to address health inequalities experienced by women, which should provide focus to gender-specific and gender-sensitive health policies and services where evidence demonstrates targeted interventions would be effective
- monitor and publish progress against equality objectives under the Public Sector Equality Duty, and what further steps they will take where progress is insufficient
- ensure the routine collection of data on women's access to, experience of, and outcomes of health services, disaggregated by protected characteristics, and
- ensure there are sufficiently funded, appropriate and high-quality mental health services that meet local demand.

⁴²⁵ National Assembly for Wales (2017), 'Children, Young People and Education Committee inquiry report: perinatal mental health in Wales'. Available at: <http://www.assembly.wales/en/newhome/pages/newsitem.aspx?itemid=1773&assembly=5&startDt=01/10/2017&endDt=01/11/2017> [accessed: 29 April 2018].

⁴²⁶ Welsh Government (2016), 'Together for mental health – delivery plan: 2016-19'. Available at: <http://gov.wales/topics/health/nhswales/plans/mental-health/?lang=en> [accessed: 29 April 2018].

⁴²⁷ Ibid.

⁴²⁸ Independent Review of Health and Social Care in Wales <http://gov.wales/newsroom/health-and-social-services/2018/care/?lang=en> [accessed: 29 April 2018].

Sexual and reproductive health and rights

Access to sexual and reproductive health services

Women in England and Wales are legally entitled to an abortion when it has been approved by two medical practitioners, on the basis of one or more of seven grounds.⁴²⁹ In 2016, 185,596 abortions were carried out on residents in England and Wales.⁴³⁰ Of this total:

- 92% were performed before 13 weeks' gestation, and just 0.1% were carried out over 24 weeks.
- The abortion rate was highest among 22-year-olds, and had decreased significantly for those under 18 (although this rate remains among the highest in Europe⁴³¹).
- Ethnic minorities, particularly Black women, are disproportionately represented.⁴³²

Evidence from across the UK indicates that disabled women experience a number of barriers to accessing sexual and reproductive health and information services. For example:

- Few services offer support and information about sex and relationships for people with a learning disability.⁴³³

⁴²⁹ A: the continuance of the pregnancy would involve risk to the life of the pregnant woman greater than if the pregnancy were terminated

B: the termination is necessary to prevent grave permanent injury to the physical or mental health of the pregnant woman

C: the pregnancy has not exceeded its twenty-fourth week and that the continuance of the pregnancy would involve risk, greater than if the pregnancy were terminated, of injury to the physical or mental health of the pregnant woman

D: the pregnancy has not exceeded its twenty-fourth week and that the continuance of the pregnancy would involve risk, greater than if the pregnancy were terminated, of injury to the physical or mental health of any existing children of the family of the pregnant woman

E: there is a substantial risk that if the child were born it would suffer from such physical or mental abnormalities as to be seriously handicapped

F: to save the life of the pregnant woman

G: to prevent grave permanent injury to the physical or mental health of the pregnant woman.

See: <https://www.legislation.gov.uk/ukpga/1967/87/contents> [accessed: 20 May 2018].

⁴³⁰ A further 4,810 were carried out on non-residents, the vast majority of whom came from the Republic of Ireland and Northern Ireland. See: Department of Health and Social Care (2017), 'Abortion statistics, England and Wales: 2016'. Available at:

<https://www.gov.uk/government/statistics/report-on-abortion-statistics-in-england-and-wales-for-2016> [accessed: 12 January 2018].

⁴³¹ Family Planning Association (FPA). 2016, *Press release: UK has highest teenage birth rates in Western Europe*. [ONLINE]. Available at: <https://www.fpa.org.uk/news/uk-has-highest-teenage-birth-rates-western-europe> [accessed: 12 January 2018].

⁴³² Ibid.

⁴³³ Mencap. 2017. *Latest research on relationships, sex and learning disability*. [ONLINE]. Available at: <https://www.mencap.org.uk/learning-disability-explained/research-and-statistics/relationships-and-sex-research-and-statistics> [accessed: 12 January 2018]

- Women with learning disabilities did not make their own decisions about the use of contraception, or had their choices constrained.⁴³⁴
- Disabled pregnant women are generally not receiving the appropriate support and communication needed for individualised care, including in relation to their disability.⁴³⁵

Research has also found that just 12% of CCGs in England are following national guidance allowing eligible women aged under 40 three in vitro fertilisation (IVF) cycles as part of their assisted reproduction services. This number is down from 24% in 2013. The inconsistency in provision across England has led to a 'postcode lottery' for patients. This is in stark contrast to the situation in Wales, where access criteria and provision are standardised.⁴³⁶

In 2017, we shared concerns that people who are undergoing, or are planning to undergo gender reassignment treatment, which may render them infertile, are being denied access to gamete extraction and storage by some CCGs in England.⁴³⁷ This treatment is likely to be freely provided to other patients in comparatively similar circumstances.⁴³⁸

Sexual and reproductive health outcomes

Between 2013 and 2016, there was a 9% drop in the number of new sexually transmitted infection (STI) diagnoses for women in England. However, FPA, the sexual health charity, warned that 'unfortunately this may well be more the result of fewer tests being carried out ... Over 160,000 fewer chlamydia tests were carried out in 2016, compared to 2015 – a fall of 5%'.⁴³⁹ Analysis by the King's Fund shows that, as a result, local authorities in England are planning to cut sexual health services by

⁴³⁴ Based on a small-scale, UK-based survey. See: Earle, S., Ledger, S. and Tilley, E. (2016), 'Contraceptive decision-making and women with learning disabilities', *Sexualities*, vol 19, no. 5-6. Available at: <http://journals.sagepub.com/doi/abs/10.1177/1363460715620576> [accessed: 12 January 2018].

⁴³⁵ Based on a small-scale study. See: Birthrights and Bournemouth University (2016), 'The human rights and dignity experience of disabled women during pregnancy, childbirth and early parenting'. Available at: <http://www.birthrights.org.uk/wordpress/wp-content/uploads/2016/09/Interim-Report-Dignity-Experience-Disabled-Women.pdf> [accessed: 12 January 2018].

⁴³⁶ Fertility Fairness (2017), 'NHS IVF provision report 2017'. Available at: http://www.fertilityfairness.co.uk/wp-content/uploads/2017/10/FertilityFairness_2017_PBRapor.pdf [accessed: 12 January 2018].

⁴³⁷ Equality and Human Rights Commission. 2017. *Written response: Review of the adult gender identity service specification for England*. [ONLINE]. Available at: <https://www.equalityhumanrights.com/sites/default/files/consultation-response-nhs-england-adult-gender-identity-service-october-2017.docx> [accessed: 29 April 2018].

⁴³⁸ For example, a women or man undergoing chemotherapy that may render that person infertile.

⁴³⁹ FPA. 2017, *Press release: New statistics on sexually transmitted infections raise concerns for services*. [ONLINE]. Available at: <https://www.fpa.org.uk/news/new-statistics-sexually-transmitted-infections-raise-concerns-services> [accessed: 29 April 2018].

£30m in 2017/8.⁴⁴⁰ Conversely, since 2012, there has been a general increase in the number of STIs diagnosed in Wales, part of which may be due to increased testing.⁴⁴¹

NHS England offers the human papilloma virus (HPV) vaccination to girls aged 12-18, in a drive to address one of the main causes of cervical cancer.⁴⁴² ⁴⁴³ In 2016, the rate of first episode genital warts among females aged 15-17 years, many of whom would have received the vaccine, was 72% lower than in 2009.⁴⁴⁴

After a major independent review of maternity services,⁴⁴⁵ the UK Government announced a target to halve the rate of stillbirths, neonatal and maternal deaths in England by 2030,⁴⁴⁶ ⁴⁴⁷ which between 2013 and 2015 was 8.8 deaths per 100,000 maternities.⁴⁴⁸

Recommendations

The EHRC recommends that the UK and Welsh governments should:

- take steps to ensure that all women can enjoy access to mainstream sexual and reproductive healthcare and maternity services, including disabled women, on an equal basis with others.

⁴⁴⁰ The Kings Fund. 2017, *Press release: Big cuts planned to public health budgets*. [ONLINE]. Available at: <https://www.kingsfund.org.uk/press/press-releases/big-cuts-planned-public-health-budgets> [accessed: 12 January 2018].

⁴⁴¹ See: <https://www.fpa.org.uk/factsheets/sexually-transmitted-infections#wales> [accessed: 6 June 2018]

⁴⁴² NHS Choices. 2017. *HPV vaccine*. [ONLINE]. Available at: <https://www.nhs.uk/Conditions/vaccinations/Pages/hpv-human-papillomavirus-vaccine.aspx> [accessed: 12 January 2018].

⁴⁴³ In 2014/5, the coverage of the vaccine in England was 89.4%. See: Public Health England (2015), 'Human papilloma virus (HPV) vaccination coverage in adolescent females in England: 2014/15', p.4. Available at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/487514/HPV_2014_15_ReportFinal181215_v1.1.pdf [accessed: 12 January 2018].

⁴⁴⁴ Public Health England (2017), 'Sexually transmitted infections and chlamydia screening in England, 2016'. *Health Protection Report*, vol. 11, no. 20. London: PHE. Available at: <https://www.gov.uk/government/publications/health-protection-report-volume-11-2017/hpr-volume-11-issue-20-9-june> [accessed: 29 April 2018].

⁴⁴⁵ National Maternity Review (2016), 'Better births: improving outcomes of maternity services in England'. Available at: <https://www.england.nhs.uk/publication/better-births-improving-outcomes-of-maternity-services-in-england-a-five-year-forward-view-for-maternity-care/> [accessed: 12 January 2018].

⁴⁴⁶ Department of Health. 2015, *Press release: New ambition to halve rate of stillbirths and infant deaths*. [ONLINE]. Available at: <https://www.gov.uk/government/news/new-ambition-to-halve-rate-of-stillbirths-and-infant-deaths> [accessed: 12 January 2018].

⁴⁴⁷ Further information see: <https://www.england.nhs.uk/wp-content/uploads/2017/03/nqb-national-guidance-learning-from-deaths.pdf> [accessed: 29 April 2018].

⁴⁴⁸ MBRACE-UK (2017), 'Saving lives, improving mothers' care – lessons learned to inform maternity care from the UK and Ireland Confidential Enquiries into Maternal Deaths and Morbidity 2013–15'. Available at: <https://www.npeu.ox.ac.uk/mbrace-uk/reports> [accessed: 29 April 2018].

The EHRC recommends that the UK Government should:

- ensure that transgender women are able to access gamete storage services, free from discrimination, and
- standardise eligibility criteria for IVF treatment, in line with the guidelines from the National Institute for Health and Care Excellence (NICE), to ensure that all eligible women receive three cycles of IVF, regardless of where they live.

10. Equality in education:

relates to articles 5 and 10, CO paragraphs 45.a-d and 61.a and SDG 4

Bias in subject choices

Girls in England continue to do better than boys against all measures of secondary education, on average achieving results 5% higher than boys⁴⁴⁹. In Wales it is similar; 2016 statistics show that at foundation stage there is an 8.2% gender gap in achievement. Girls' advantage in attainment levels does not extend into the workplace.

Partly this is due to differences in subject choices. While girls should be encouraged to pursue their talents wherever they lie, choosing science subjects at A-level is a good predictor of future job opportunities,⁴⁵⁰ and STEM ⁴⁵¹ careers can come with a 19% pay premium.⁴⁵² Gender norms can go on to affect the labour market in significant ways, particularly in terms of occupational segregation (see pages 85-88). For example, UCAS (Universities and Colleges Admissions Service) reported in 2017 that English 18-year-old women are 30 times more likely to study nursing at university than 18-year-old men.⁴⁵³ In the same year, the Royal College of Nursing reported that 87% of UK nurses were female.⁴⁵⁴

⁴⁴⁹ Department for Education/Office for National Statistics (2017). 'Provisional GCSE and equivalent results in England, 2016-17'. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/653532/SFR57_2017.pdf [accessed: 10 January 2018].

⁴⁵⁰ Plan International UK (2016), 'The state of girls' rights in the UK. Available at: <https://plan-uk.org/file/plan-international-ukthe-state-of-girls-rights-in-the-uk-2016pdf/download?token=upKuLdiO> [accessed: 16 January 2018].

⁴⁵¹ Science, technology, engineering and mathematics.

⁴⁵² Inside Careers. 2016. *UK STEM graduates 'earn nearly 20% more than their peers'*. [ONLINE]. Available at: <http://www.insidecareers.co.uk/2016/07/uk-stem-graduates-earn-nearly-20-more-than-their-peers/> [accessed: 16 January 2018].

⁴⁵³ UCAS (2017), 'End of cycle report 2017: patterns by subject'. Available at: <https://www.ucas.com/file/136531/download?token=A0UpZoEd> [accessed: 29 April 2018].

⁴⁵⁴ Royal College of Nursing (2017), 'The UK nursing labour market review 2017'. Available at: <https://www.rcn.org.uk/-/media/royal-college-of-nursing/documents/publications/2017/december/pdf-006625.pdf> [accessed: 29 April 2018].

Gender differences for STEM subject preferences emerge at an early age. A study of girls and young women in the UK⁴⁵⁵ suggests there is just a five-year window to foster girls' passion for STEM subjects, as most girls become attracted to them in primary school but their interest drops sharply as 16-17 year olds. A study in England showed the influence of parents on girls' subject choices.⁴⁵⁶ Advocates promote the need for better role models, parental and teacher support, and fostering belief in equal treatment in STEM careers. In a new careers strategy, the UK Government has committed to assessing current careers provision in English schools and colleges, and will produce information about 'what works' to better support schools and colleges to encourage STEM take-up, especially for girls.⁴⁵⁷

In Wales, girls and women are particularly under-represented in physics, computer science and engineering from the uptake of these subjects at A-level through to university.⁴⁵⁸ The Welsh Government has accepted all 33 recommendations from the independent report 'Talented women for a successful Wales',⁴⁵⁹ which calls for improving gender balance in STEM in educational policies and programmes for teacher training, curriculum reform, careers advice, apprenticeships and further and higher education funding. The Welsh Government has also prioritised increasing interest and participation in STEM learning, particularly for girls, in its 2016 STEM education and training.

Recommendations

The EHRC recommends that the UK and Welsh governments should:

- ensure that careers guidance and work experience opportunities tackle gender stereotypes and encourage a wider range of subject and career choices for women and girls from primary school onwards, and
- increase their efforts to tackle barriers to, and encourage girls' uptake of, STEM subjects, while demonstrating regard to different protected characteristics and

⁴⁵⁵ Education Technology (2017), *Why aren't more girls in the UK studying STEM subjects?* Available at: <http://edtechnology.co.uk/Article/why-arent-more-girls-in-the-uk-studying-stem-subjects> [accessed: 10 January 2018].

⁴⁵⁶ See: <https://www.engineer-a-better-world.org/find-out-more/> [accessed 8 June 2018].

⁴⁵⁷ Department for Education (2017), 'Careers strategy: making the most of everyone's skills and talents'. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/664319/Careers_strategy.pdf [accessed: 8 January 2018].

⁴⁵⁸ Welsh Government (2016), 'Talented women for a successful Wales. a report on the education; recruitment; retention and promotion of women in STEM-related study and careers'. Available at: <http://sites.cardiff.ac.uk/cwis/files/2016/03/TalentedWomenforaSuccessfulWales.pdf> [accessed: 16 January 2018].

⁴⁵⁹ Welsh Government. 2017. *Women in science*. [ONLINE]. Available at: <http://gov.wales/topics/science-and-technology/science/women-in-science/?skip=1&lang=en> [accessed: 16 January 2018].

socio-economic groups, so that all girls have the opportunity to consider and pursue this career path.

Personal, social, health and economic (PSHE) and relationships and sex education

PSHE education (or PSE in Wales) is vital for promoting pupils' physical and mental health, and encouraging healthy attitudes and relationships.^{460 461} The PSHE Association analysed Department for Education data and found that the amount of time allocated to PSHE/PSE by schools in England decreased by over 32% (at key stages 3 and 4) between 2011 and 2015.⁴⁶² This inconsistency was largely due to the lack of statutory status for the subject, something that the chairs of five UK Parliament select committees called for in November 2016.⁴⁶³ Making PSHE/PSE mandatory would be an opportunity to support pupils' greater understanding of and respect for human rights in schools, and support pupils' physical and emotional wellbeing.⁴⁶⁴

High-quality relationships and sex education (RSE) can play an important role for both girls and boys in promoting healthy relationships and preventing child sexual abuse, harassment and exploitation.⁴⁶⁵ Moreover, studies have shown that young

⁴⁶⁰ PSHE Association (2017), 'A curriculum for life: the case for statutory PSHE education'. Available at: <https://www.pshe-association.org.uk/sites/default/files/psheall/Curriculum%20for%20life%20May%202017.pdf> [accessed: 5 January 2018].

⁴⁶¹ Research shows that teaching of rights, respect and responsibility can lead to enhanced citizenship values and behaviours. See: Howe, R. B. and Covell, K. (2007), 'Empowering children: children's rights education as a pathway to citizenship'. Toronto: University of Toronto Press. UN CRC Concluding Observations 2008 also highlighted the need for awareness raising and training to ensure the school environment reflects the principles of human rights, peace, tolerance, dignity and respect. It recommended that efforts to tackle bullying and violence in schools should be intensified, including through human rights education.

⁴⁶² PSHE Association (2017), 'A curriculum for life: the case for statutory PSHE education'. Available at: <https://www.pshe-association.org.uk/sites/default/files/psheall/Curriculum%20for%20life%20May%202017.pdf> [accessed: 5 January 2018].

⁴⁶³ This included the Committees on Education, Women and Equalities, Home Affairs, Health and Business, Energy and Industrial Strategy. See: <https://www.parliament.uk/business/committees/committees-a-z/commons-select/education-committee/news-parliament-2015/phse-sre-letter-published-16-17/> [accessed: 16 January 2018].

⁴⁶⁴ Equality and Human Rights Commission (2017), 'Response to changes to teaching of sex and relationships education, and PSHE'. Available at: https://www.equalityhumanrights.com/sites/default/files/our_response_to_the_dfe_consultation_on_changes_to_pshe_and_sex_and_relationships_education.docx [accessed: 29 April 2018].

⁴⁶⁵ Sex Education Forum (2015), 'SRE – the evidence'. Available at: <http://www.sexeducationforum.org.uk/media/28306/SRE-the-evidence-March-2015.pdf> [accessed: 5 January 2018].

people (particularly young women) who learn about sex and relationships mainly at school are less likely to report poor sexual health outcomes.⁴⁶⁶

Current RSE guidance for schools in England is outdated,⁴⁶⁷ and the curriculum as it stands only requires compulsory teaching of the biology of sex. Where education on sex and relationships does exist, 75% of pupils say it does not cover issues of consent, a vital way to prevent and address the causes of VAWG (see pages 22-47).⁴⁶⁸ LGBT pupils are also more likely to rate their RSE education as 'poor'.⁴⁶⁹ The charity Stonewall argues that to ensure that all young people are equipped to make informed decisions about their lives and relationships, new RSE guidance must take into account the needs and experiences of LGBT people, and be supported by high-quality, inclusive resources and training for teachers, including in having discussions.⁴⁷⁰

We welcome the UK Government's announcement that it will introduce mandatory age-appropriate RSE in schools in England and see it as an opportunity to enhance the quality of teaching and design a new curriculum that is inclusive and fit for purpose. The UK Government has pledged to implement mandatory RSE from September 2019, although the exact form this will take is dependent on the outcome of its consultation.⁴⁷¹

In Wales, RSE is a compulsory part of the basic curriculum in secondary schools, under the Education Act 2002. However, teaching varies from school to school. The

⁴⁶⁶ A *BMJ* study also found that: 'Among women, reporting school as the main source of information was associated with a decreased likelihood of ... negative sexual health indicators.' See: Macdowall, W., Jones, K. G., Tanton, C. *et al* (2015), 'Associations between source of information about sex and sexual health outcomes in Britain: findings from the third National Survey of Sexual Attitudes and Lifestyles (Natsal-3)'. *BMJ Open*, vol. 5, no. 3. Available at:

<http://bmjopen.bmj.com/content/5/3/e007837.full> [accessed: 5 January 2018].

⁴⁶⁷ Published in 2000, it makes no reference to topics relating to new technologies, such as online safety or sexting. It was also produced at a time when the now-abolished 'Section 28', which prohibited local authorities from 'promoting' homosexuality, was still in place. See: Department for Education (2000), 'Sex and relationship education guidance'. Available at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/283599/sex_and_relationship_education_guidance.pdf [accessed: 5 January 2018].

⁴⁶⁸ Terrence Higgins Trust (2016), 'LGBT-inclusive sex and relationships education in the UK'.

Available at: <http://www.tht.org.uk/~media/Files/Campaign/SRE%20Report%202016%20final.pdf> [accessed: 5 January 2018].

⁴⁶⁹ *Ibid.*

⁴⁷⁰ Stonewall (2017), 'School report: the experiences of lesbian, gay, bi and trans young people in Britain's schools in 2017'. Available at:

http://www.stonewall.org.uk/sites/default/files/the_school_report_2017.pdf [accessed: 5 January 2018]

⁴⁷¹ Department for Education (2017), 'Policy statement on relationships education, relationships and sex education, and personal, social, health and economic education'. Available at:

<https://www.gov.uk/government/publications/relationships-education-rse-and-pshe> [accessed: 29 April 2018].

Sex and Relationships Education Expert Panel's report in December 2017⁴⁷² highlighted the development of a new curriculum as an opportunity to ensure that RSE is included as a statutory element for all schools (for those aged 3-16) in Wales, with children's rights and gender equity as core underpinning principles. The Welsh Government's Cabinet Secretary for Education is due to respond to the recommendations.

Recommendations

The EHRC recommends that the UK and Welsh governments should:

- make personal, social, health and economic education mandatory in its entirety, in all schools and educational settings from key stages 1 to 4, with a curriculum that offers comprehensive coverage of human rights and equality issues, and
- ensure that statutory RSE meets the needs of all young women and girls, and other groups with protected characteristics, so that they are equipped with the knowledge they need to stay safe and prepare for life beyond the classroom.⁴⁷³

The EHRC recommends that the Welsh Government should:

- accept and act on the recommendations from the Sex and Relationships Education Expert Panel.

Bullying and harassment in schools

Many girls and young women experience sexist and sexualised bullying and harassment in school or college. DfE research⁴⁷⁴ showed that 14-15 year old girls in England were more likely than boys to be bullied (42% against 33%), and more like to experience it in the form of name calling, exclusion from groups and cyber-

⁴⁷² Renold, E. and McGeeney, E. (2017), 'The future of the sex and relationships education curriculum in Wales'. Welsh Government. Available at: <http://www.cardiff.ac.uk/research/explore/find-a-project/view/1026193-informing-the-future-of-the-sex-and-relationships-curriculum-in-wales> [accessed: 16 January 2018].

⁴⁷³ This should include coverage of sexual and reproductive health and rights, and discussion of same-sex as well as heterosexual relationships.

⁴⁷⁴ Department for Education (2016), 'Longitudinal study of young people in England cohort 2: health and wellbeing at wave 2'. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/599871/LSYPE2_w2-research_report.pdf [accessed: 10 January 2018].

bullying. Bullying harms young people's attainment, ambitions, emotional wellbeing and health, with many effects continuing into later life.⁴⁷⁵

For some girls, the harassment they face can be of a sexual and/or physical nature, and in the worst cases may be criminal acts. A survey of girls and young women aged 13-21 across the UK found that nearly a fifth had experienced unwanted touching at school or college.⁴⁷⁶ A BBC investigation found reports of 4,000 alleged physical sexual assaults and more than 600 rapes to have taken place in UK schools in the period 2012-15, a fifth of which were carried out by other children.⁴⁷⁷ A DfE survey⁴⁷⁸ found that less than a third of girls in England had confidence that teachers would definitely act on something sexist or sexual said to girls, and only around two-thirds had confidence teachers would definitely act in response to inappropriate touching without permission.

A UK Parliamentary inquiry⁴⁷⁹ into sexual harassment and sexual violence in schools in England highlighted that the majority of girls and young women say that anxiety about sexual harassment affects their lives in some way. The inquiry found that data collection and statutory guidance on this issue was insufficient, and that too often sexual harassment and violence were ignored or received an inadequate response from schools.⁴⁸⁰

In December 2017, DfE published advice⁴⁸¹ requiring schools and colleges to make clear that sexual violence and harassment are not acceptable under any circumstances. It also highlights that monitoring and recording of sexual violence and

⁴⁷⁵ EHRC. 2017, *Press release: Supporting Anti-Bullying Week 2017*. [ONLINE]. Available at: <https://www.equalityhumanrights.com/en/our-work/news/supporting-anti-bullying-week-2017> [accessed: 10 January 2018].

⁴⁷⁶ Girlguiding UK (2017), 'Girls' attitudes survey 2017'. Available at: <https://www.girlguiding.org.uk/globalassets/docs-and-resources/research-and-campaigns/girls-attitudes-survey-2017.pdf> [accessed: 10 January 2018].

⁴⁷⁷ Savage, C. (2015), *School sex crime reports in UK top 5,500 in three years*, BBC News, 6 September. [ONLINE]. Available at: <http://www.bbc.co.uk/news/education-34138287> [accessed: 31 May 2018].

⁴⁷⁸ Department for Education (2017), 'Omnibus survey of pupils and their parents/carers'. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/626068/PPC_Omnibus_Wave_2_Report.pdf [accessed: 10 January 2018].

⁴⁷⁹ Women and Equalities Committee (2016), 'Sexual harassment and sexual violence in schools'. Available at: <https://publications.parliament.uk/pa/cm201617/cmselect/cmwomeq/91/91.pdf> [accessed: 16 January 2018].

⁴⁸⁰ Ibid.

⁴⁸¹ Department for Education (2017), 'Sexual violence and sexual harassment between children in schools and colleges'. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/667862/Sexual_Harassment_and_Sexual_Violence_-_Advice.pdf [accessed: 8 January 2018].

sexual harassment is essential. DfE guidance⁴⁸² on bullying in general, however, still states that schools can use their discretion about recording such incidents.

A 2016 report examining girls' experiences in Wales⁴⁸³ showed that over 60% of girls surveyed online via social media said they had experienced bullying, 70% had experienced sexism, and 65% sexual harassment.

The Children's Commissioner for Wales suggests that there has been a lack of consistency in handling bullying complaints, and that anti-bullying guidance is often overlooked by schools. It reports⁴⁸⁴ that although head teachers and governing bodies must, by law, have a policy to prevent all forms of bullying, thousands of children in Wales continue to identify bullying as their number one concern. It suggests the Welsh Government is not doing enough to address the situation.⁴⁸⁵

Recommendations

The EHRC recommends that the UK and Welsh governments should:

- conduct regular surveys to determine the extent of bullying and prejudice-based bullying, sexual harassment and violence in schools, so they have a better understanding of the issue, and to provide a baseline to track progress and to take appropriate action on the findings
- disseminate best practice on how schools can address sexual harassment and violence, including advice on supporting teachers to feel confident in recognising and addressing such behaviour

⁴⁸² Department for Education (2017), 'Preventing and tackling bullying: advice for head teachers, staff and governing bodies'. Available at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/623895/Preventing_and_tackling_bullying_advice.pdf [accessed: 10 January 2018].

⁴⁸³ Full Circle Education (2016), 'Fundamental rights. From feminism to fashion, sex to stereotypes: the voices of girls in Wales'. Available at: <http://fullcircleeducation.dropmark.com/150934/8572989> [accessed: 16 January 2018].

614 girls across Wales participated in this online survey. It was conducted online utilising social media platforms to recruit participants. The self-selecting, non-randomised sample is unlikely to be representative of all girls in Wales. However, the survey findings are indicative of the issues experienced by some girls.

⁴⁸⁴ Children's Commissioner for Wales (2017), 'Sam's story. Listening to children and young people's experiences of bullying in Wales'. Available at: <https://www.childcomwales.org.uk/wp-content/uploads/2017/07/Sams-Story.pdf> [accessed: 16 January 2018].

⁴⁸⁵ The report makes a number of recommendations. The ones that need to be addressed by the Welsh Government include:

- a clear definition of bullying
- human rights education to be compulsory in the curriculum
- children to be supported in understanding how to resolve conflict
- adaptation of the whole school environment to improve wellbeing, and
- insistence on 'robust anti-bullying policies' widely available to, and understood by, pupils.

- ensure that schools receive consistent guidance on preventing and tackling bullying, including sexual harassment and violence; and make sure that this guidance requires all schools to gather, record by protected characteristic and use the information on bullying to develop and evaluate their anti-bullying strategies, in line with their obligations under the Public Sector Equality Duty, and
- ensure initial teacher training includes support on how to prevent and tackle prejudice-based bullying, sexual harassment and sexual violence.

Contacts

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