



NUJ submission to the Women and Equalities Committee sexual harassment in the workplace inquiry

March 2018

1. The NUJ has identified sexual harassment as a problem across the media industry. It has worked with colleagues from unions in the creative industries on research which revealed a similarly worrying pattern. Making a comparison over time is difficult since our evidence shows that a great deal of sexual harassment has gone unreported. There is a particular problem when the workforce is casualised. People fear that raising a complaint without the security of a staff contract will damage their future employment prospects. The entertainment, arts and media industries are very competitive. They are seen as glamorous worlds, but the reality is that many workers are freelancers or work on short-term contracts with few statutory rights; yet, there is always someone who would do the job and this makes people less likely to report sexual harassment.
2. As part of the NUJ's submission to the BBC's Respect at Work review carried by Dinah Rose QC (May 2013), Michelle Stanistreet, the NUJ's general secretary, heard testimony from members working at the corporation. In our submission we gave evidence of "accounts of sexual harassment and some instances where bullying and sexual harassment are linked. There is some evidence of how sexual harassment has been used by more senior figures to wield power over more junior individuals." Reports from reps showed that "many journalists felt anxious about speaking out about bullying and harassment ... particularly if they did not feel they had been listened to in the past, or they felt pressure not to put on record their complaints". Many of the people who spoke to the NUJ did not want to be identified because they thought it would have a negative effect on their career. People who found the courage to take out a grievance report said they were later victimised for doing so and described how this had damaged their job prospects.
3. As part of our evidence to the Leveson Inquiry, we again heard in confidence testimony from our members. While the main thrust of the evidence was the level of bullying in macho-style newsrooms, there was also an element of it that was gender-related, for example one reporter, who had already been subject to jibes about her weight, was forced to go out into the street dressed Lady Gaga-style in a dress made from meat. A young male reporter was made to wear a cheerleader's outfit. "It's

totally sexist and degrading,” said our witness. “The atmosphere was poisonous, it was unchecked bullying. When your boss said jump, it was a case of how high.”

4. Creating without Conflict is a campaign [<https://www.nuj.org.uk/campaigns/creating-without-conflict/>] run by the Federation of Entertainment Unions (FEU) which comprises the National Union of Journalists, BECTU, Equity, Musicians’ Union, Professional Footballers’ Association, Writers’ Guild and Unite. A survey of 4,000 workers revealed the creative industries were “hotspots” of bullying. More than half of those questioned (56 per cent) said they had been bullied, harassed or discriminated against at work. Eight in 10 women (81 per cent) who reported bullying, harassment and discrimination said their gender was a factor. The respondents reported incidents that ranged from lewd comments to sexual assault and they cited pressure from superiors to enter sexual relationships and unnecessary scripted nudity. Women said they had to develop strategies to avoid sexual harassment as their career progressed, but then found they were discriminated against because of age and were viewed as beyond their shelf-life. One in 10 respondents in theatre, television and film witnessed sexually-related harassment.
5. A parliament-wide survey of 1,377 workers carried out by a cross-party team examining the culture at Westminster revealed 39 per cent of staff, MPs and peers had experienced bullying and harassment of some sort while on parliamentary property. Of those suffering bullying or harassment, 45 per cent were women and 35 per cent were male. Emily Cunningham, the NUJ rep for SNP Westminster staff, was a member of the cross-party team. A number of members who worked in Westminster contacted the union to report lewd behaviour, mostly from drunken MPs. A number of allegations have been made on the record by journalists of being sexually harassed, such as Kate Maltby by Damien Green and Jane Merrick by Michael Fallon. However, we also heard from members who thought the increase in the number of women MPs had made a difference to the atmosphere in Westminster. The Parliamentary working party identified the need for a cultural change underpinned by policies which made people feel it was safe to report sexual harassment, codes of conduct and sanctions against perpetrators. The union believes that the Wild West of employment practices which proliferate at Westminster are at the heart of the problem.
6. Researchers from the Trades Union Congress and the Everyday Sexism Project found that 52 per cent of women had experienced unwanted behaviour at work, including groping, sexual advances and inappropriate jokes. Among women and girls aged 16-24, the proportion reporting sexual harassment rose to 63 per cent. Our evidence suggests that the main perpetrators of sexual harassment are those who wield power in the workplace. Freelance staff are particularly vulnerable, as discussed above. Despite roughly the same number of men and women working in the media industry (45 per cent are women, according to the 2016 report, *Journalists in the UK*,

by the Reuters Institute for the Study of Journalism), men predominate in management and senior roles. The reluctance of media companies so far to publish their gender pay details (or to do so under the radar) is a reflection of their poor record of equitable pay and promotion between the sexes. Trinity Mirror's figures revealed an overall 18 per cent difference between the mean hourly pay of men and women and a more than an 11 per cent gap between those bonuses paid to men and their female colleagues at Mirror Group Newspapers Ltd. At the Press Association, data released in February 2018 showed its workforce consisted of 63.9 per cent men and 36.1 per cent women and two-thirds of the best-paid jobs were filled by men, with the big bonuses going to the men. If you look at the boards and leadership teams of media organisations, you will find that the BBC has nine men and three women; Sky 8:3; ITN 6:1; Trinity Mirror 6:2; Newsquest 12:2 Johnston Press 6:1; and Penguin Random House UK 8:9. The NUJ believes there is likely to be less sexual harassment in workplaces where equality between the sexes is respected and fostered, and proper processes for reporting sexual harassment are in place.

7. One way the government can play a positive role in making it easier for women to make progress in the workplace would be to extend shared parental pay to self-employed parents. The current system puts the entire burden of childcare on the mother and offers no financial support for self-employed fathers or same-sex partners wanting to share some or all of the childcare. The NUJ is supporting Tracy Brabin MP's 10-minute rule bill to extend shared parental leave and pay to the self-employed. This would play a part in enabling women with children to progress to senior positions.
8. In 2013 the government repealed provisions in the Equality Act 2010 that were designed to provide a remedy for employees harassed by third parties. The law should be changed to fix legal responsibility on employers for unlawful acts by third parties against staff/workers/freelancers.
9. Employers can do much to improve workplace culture: by issuing a policy statement spelling out that sexual harassment is not permitted or condoned and including "respect at work" clauses in employee, freelance, casual and third party contracts.
10. The NUJ works with employers to ensure processes in the reporting and investigation of cases of sexual harassment are independent to reduce the risk of bias or intimidation creeping in, particularly in cases where senior individuals are involved. Where individuals are confident of fair processes they are more likely to come forward.
11. The union, on behalf of its members, engages with companies to ensure their policies on harassment are up to date, that employers communicate with their staff regularly (setting out informal as well as formal processes) to give confidence in the way complaints will be dealt with, that they explain exactly what behaviour is not acceptable, provide regular training and ensure that individuals are aware of their legal rights.

12. Companies should encourage employees, freelance workers and contractors to approach their union for support in circumstances where they are not confident about reporting unwanted behaviour directly to the company.
13. The union provides guidelines for reps and a model workplace policy [<https://www.nuj.org.uk/documents/nuj-briefing-for-union-reps-on-sexual-harassment/>]
14. The FEU's Creating without Conflict campaign has produced a code of conduct for the creative industries, and our colleagues working in film and TV have published a set of principles for the screen industries. However, in the media industry there is a great deal of management hostility to unions; with many companies resisting union recognition. It has been demonstrated, for example at the BBC following the Respect at Work review, it was the unions that pressed hard for tough, new policies to tackle what Dinah Rose QC called a very troubling undercurrent of fear and lack of trust between staff and management. The FEU survey revealed that where bullying was reported, being a member of a union was more likely to lead to a successful outcome.
15. The NUJ welcomed the ruling of the Supreme Court in July 2017 that the government was acting unlawfully and unconstitutionally when it introduced tribunal fees. The government's own statistics showed 79 per cent fewer cases were brought during the three years when the fees were imposed, preventing workers from being able to access justice.
16. The Equalities Act 2010 previously included a power for employment tribunals to make recommendations to benefit not just the claimant but also the wider workforce; this provision was removed in 2015. It would be beneficial in seeking a broader cultural change if the reinstatement of the wider application was reviewed.
17. Hollywood mogul Harvey Weinstein notoriously used nondisclosure agreements (NDAs) attached to monetary settlements to prevent accusers speaking out about his alleged serial sexual harassment. NDAs are often used by companies to sweep under the carpet sexually inappropriate behaviour by staff members. They are often used when the perpetrator is a powerful person or to limit damage to the company's reputation. Zelda Perkins, one of Weinstein's former assistants who broke her NDA and went public, said women settle claims because they felt they had no other option. Likewise, Fox News resorted to NDAs when it paid off numerous women who had been reportedly sexually harassed by the broadcaster's founder, Roger Ailes, and former TV host, Bill O'Reilly. NDAs clearly allow perpetrators to act with impunity, putting other women at risk. The NUJ believes NDAs are highly inappropriate in these cases. The advantages of NDA's, such as the ability to settle protracted and costly litigation, protection for individuals wrongly accused, or victims who do not wish to be identified do not outweigh the disadvantages of making such clauses unenforceable.