

**PROPOSED PROTECTION OF WORKERS (RETAIL AND AGE-  
RESTRICTED SALES ETC.) (SCOTLAND) BILL**

**DANIEL JOHNSON MSP**

**SUMMARY OF CONSULTATION RESPONSES**

This document summarises and analyses the responses to a consultation exercise carried out on the above proposal.

The background to the proposal is set out in section 1, while section 2 gives an overview of the results. A detailed analysis of the responses to the consultation questions is given in section 3. These three sections have been prepared by the Scottish Parliament's Non-Government Bills Unit (NGBU). Section 4 has been prepared by Daniel Johnson MSP and includes his commentary on the results of the consultation.

Where respondents have requested that certain information be treated as confidential, or that the response remain anonymous, these requests have been respected in this summary.

In some places, the summary includes quantitative data about responses, including numbers and proportions of respondents who have indicated support for, or opposition to, the proposal (or particular aspects of it). In interpreting this data, it should be borne in mind that respondents are self-selecting and it should not be assumed that their individual or collective views are representative of wider stakeholder or public opinion. The principal aim of the document is to identify the main points made by respondents, giving weight in particular to those supported by arguments and evidence and those from respondents with relevant experience and expertise. A consultation is not an opinion poll, and the best arguments may not be those that obtain majority support.

## SECTION 1: INTRODUCTION AND BACKGROUND

Daniel Johnson MSP's draft proposal, lodged on 19 January 2018, is for a Bill to increase the protection for workers in the retail sector and those applying or enforcing an age-restriction in relation to the sale or supply of goods or services.

The proposal was accompanied by a consultation document, prepared with the assistance of NGBU. This document was published on the Parliament's website, from where it remains accessible:

<http://www.parliament.scot/parliamentarybusiness/Bills/107499.aspx>

The consultation period ran from 22 January to 20 April 2018.

Copies of responses can be viewed at: <https://www.notpartofthejob.com/>

The consultation was publicised primarily through contact with stakeholders, through email, letters and face-to-face meetings. Much of this activity took place in the consultation period, while some conversations occurred before the consultation opened. Some stakeholders were also kind enough to pass on details of the consultation to their members or others they felt may be interested.

Additionally, the member wrote to over 1,000 local businesses in an attempt to reach out to those who may not be covered by traditional stakeholder groups. The member also had an official launch which generated press attention including national media, and a further photo opportunity which was featured in national print press.

The consultation exercise was run by Daniel Johnson's parliamentary office.

The consultation process is part of the procedure that MSPs must follow in order to obtain the right to introduce a Member's Bill. Further information about the procedure can be found in the Parliament's standing orders (see Rule 9.14) and in the *Guidance on Public Bills*, both of which are available on the Parliament's website:

- Standing orders (Chapter 9):  
<http://www.scottish.parliament.uk/parliamentarybusiness/26514.aspx>
- Guidance (Part 3):  
<http://www.scottish.parliament.uk/parliamentarybusiness/Bills/25690.aspx>

## SECTION 2: OVERVIEW OF RESPONSES

In total, 385 responses were received and the vast majority were submitted via “Smart Survey” (an online survey which allows responses to be completed and submitted online). Nine responses were received by other formats (direct to the member via email or in hard copy).

There were 157 (41%) anonymous submissions and 29 (8%) submissions where confidentiality was requested.

There were 32 (8%) responses from organisations and 353 (92%) from individuals.

The responses can be categorised as follows:

- 1 (<1%) from a public sector organisation (Scottish Courts and Tribunals Service)
- 12 (3%) from commercial organisations (such as retailers)
- 13 (3%) from representative organisations (such as trade unions)
- 6 (2%) from third sector organisations (such as campaign groups)
- 23 (6%) from individual politicians (including MSPs, MPs and Councillors)
- 65 (17%) professionals with experience in a relevant subject area
- 5 (1%) from academics with experience in a relevant subject area
- 260 (68%) from members of the public (including some Labour Party staff members)

There were also 15 returns in response to a postcard campaign run by the member, which expressed support for the proposal in the following terms—

“Violence and abuse should never be just part of the job. I support Daniel Johnson MSP's proposed new law to protect retail and bar workers against violence & abuse.”

In addition, a co-ordinated postcard campaign was run by the Union of Shop, Distributive and Allied Workers (USDAW), to which 617 responses were received, which expressed support for the member’s proposal in the following terms—

“I support tougher sentences for those who assault shopworkers. I support Daniel Johnson MSP’s call for a Protection of Workers Bill.”

Neither of these sets of postcard responses has been included in the statistics as substantive submissions.

Where individual responses are referred to in the summary, the number allocated to the response on the member’s website is followed by the identity number generated by “Smart Survey” and the respondent’s name, or “anonymous”, indicated. Unless stated otherwise, the response has come from a member of the public. Where responses were received by email or

hard copy, only the number from the index on the member's website is provided.

There were two late responses from the Scottish Trades Union Congress and Police Scotland. These responses have not been included in the analysis below, but are available on the member's website.

The vast majority of respondents were in favour of creating a new offence of assault against a worker in the retail sector – with 92% expressing full or partial support for this proposal. The main argument made in favour was that this would be an effective means of reducing the number of assaults against retail workers. It was considered that the creation of a new offence would make clear that such behaviour was unacceptable and would not be tolerated – creating a deterrent effect.

Those who were less supportive of this proposal said that there was already adequate legislation in place to protect retail workers and that any additional protections should not be limited to those in retail but also cover other public-facing workers.

The consultation also asked which would be the best method of responding to assaults on those involved in the sale of age-restricted goods or services – a new statutory offence or a new statutory aggravation. 58% of respondents considered that the creation of a new offence would be the better option, while 7% favoured a new statutory aggravation, 19% supported either option and 4% supported neither. The remaining respondents were unsure.

Arguments for supporting a new offence were similar to those made in response to the previous question (discussed above) – it would act as a deterrent and provide support and reassurance for individuals in their workplace. Those who expressed a preference for a new aggravation considered that this would provide a means of using existing offences to create additional protections for workers subject to assaults while upholding age-restrictions.

The consultation also covered other forms of abuse, asking respondents what they considered to be the best way of addressing instances of abuse, harassment, threats or obstruction aimed at workers upholding age-restrictions. Again, there was a preference for the creation of a new offence, with 55% of respondents choosing this option. 16% chose a new statutory aggravation for threatening or abusive behaviour or harassment and a new statutory offence of obstructing a worker upholding an age-restriction; 17% supported either option, while 6% supported neither. The remaining respondents were unsure. Comments were largely similar to those made in response to the previous question with the prevailing view being that the creation of a new offence would ensure the wellbeing of workers was taken seriously.

## SECTION 3: RESPONSES TO CONSULTATION QUESTIONS

This section sets out an overview of responses to each question in the consultation document.

### **Question 1**

**Which of the following expresses your view of creating a new offence of assault against a worker in the retail sector?**

Of the 381 responses received to this question, 332 (87%) were fully supportive of the creation of a new offence, 21 (5%) were partially supportive, 7 (2%) were neutral in their view, 7 (2%) were partially opposed, 8 (2%) were fully opposed, and 6 (2%) were unsure.

### **Arguments in favour of the proposal**

#### *Tackling unacceptable behaviour*

Many respondents provided their views to this question by way of illustration of their personal experience of working in the retail or hospitality sectors. There were a range of examples of the respondent or colleagues being the subject of verbal or physical assault and/or abuse. The view was expressed that this type of behaviour was unacceptable and that as much as possible should be done to ensure a safe and secure working environment for employees. One anonymous respondent stated—

“I have worked in the retail sector for over 16 years. I experience first-hand either verbal, physical or threatening behaviour on a weekly basis. There is nothing we can do either as our jobs would be threatened if we spoke back or even tried to defend ourselves. Something needs to be done.” (Professional with experience in a relevant subject 33 – ID: 73476245)

Victim Support Scotland discussed the impact that such behaviour could have on workers—

“We understand crimes of this nature can have a physical, social, emotional and financial impact on the victim with the ripple effect affecting family, friends and the wider community, often leaving workers unable to return to work due to physical injury or fear of attack.”(Organisation 9 – ID: 70000001)

In addition, certain workers, for example, those working alone at night, were considered to be particularly at risk, as John McKnight highlighted in his response—

“People working in the retail sector are often alone and vulnerable, they don't all work in large supermarkets. So any potential perpetrators of violence should be aware of specific laws to protect lone workers. In addition retail workers should be given a little bit of reassurance that

perpetrators of violence will be dealt with specifically because they target all, but specifically lone retail workers.” (54 – ID: 77671206)

Some respondents felt that an increase in violence and abuse directed at retail workers could be linked to the introduction of age-restriction initiatives such as Challenge 25. Examples were given of customers reacting angrily when denied the sale of alcohol due to being unable to prove their age. This could lead to workers being reluctant to ask customers for identification, meaning they were not upholding their legal duties.

#### *Creating a deterrent*

A recurring theme was that a new offence would act as a much-needed deterrent, and lead to a reduction in the number of assaults against retail workers. It was argued that many customers considered it acceptable to treat retail workers offensively and that action was required to make clear that this would not be tolerated.

It was further suggested by some that violence towards workers was more prevalent in the retail sector than in others and had worsened in recent years, with one anonymous respondent stating—

“I feel that aggressive behaviour is getting worse, it is very upsetting for customer service providers and there seems to be no accountability...it seems to be 'just part of the job', but it is unacceptable.” (186 – ID: 77715707)

Caroline Hickling set out some potential benefits of the proposal in her response to this question—

“Facing abuse and violence at work is totally unacceptable, and a new law would provide a strong message to affirm that. Both victims and potential perpetrators would be aware that abuse and violence are illegal, and carry significant consequences, acting as a deterrent. It would also give victims confidence to report any abuse or violence, and make it clear it is not a part of the job they must endure.” (ID: 235 – 80281747)

### **Arguments against the proposal**

While the majority of respondents supported the proposed new offence, others expressed reservations.

#### *Should not be limited to retail workers*

Many respondents were of the view that increased protection should not be restricted to retail workers but instead extended to other public-facing workers. One anonymous respondent stated—

“The only reason I have selected partially supportive is because I feel ALL workers should have specific legal protection against assault while at work. I would cite emergency service workers; hospital staff; workers

in government and council offices. This should of course cover retail staff too. Going to work is not the most enjoyable experience for many people and a lot of these people work in difficult low paid jobs. The possibility of assault or abuse just makes life that much more stressful. It seems right that there should be specific legislation to protect people at work generally .... Special protection for staff enforcing licensing laws seems to me to discount or lessen the offence in other circumstances. A train guard could sustain the same injury after telling someone to keep their feet off a seat as a shop assistant refusing to sell alcohol to people they think are under age.” (209 – ID: 78005934)

Another anonymous respondent strongly felt that there should not be a separate law to protect retail workers—

“I speak as a former shopworker and one time member of USDAW. I see no reason, in a society that supports equality, to create separate legislation that gives one class of citizen a different standard of protection under the law. All citizens should have the same protection from violence by other citizens, and the courts should take appropriate action in removing liberty from those who choose not to abide by the rules of a civilised society” (176 – ID: 77680547)

#### *Sufficient laws in place*

There was a view that there were already sufficient laws in place to protect all workers in this context, as exemplified by the response from Roddy Stuart stating—

“On one hand, clear need to combat growth in anti-social behaviours towards all people providing a public-facing service – not just in retail and associated trades. But, on the other, there is surely sufficient basic statutory and common law provision to challenge anyone who misbehaves. What we lack is enforcement; perhaps community special police could be developed to confront this and huge numbers of other 'gateway' offences which selfishly affront others.” (64 – ID: 77686653)

The Law Society of Scotland (Organisation 18) was also opposed to the introduction of new offences, citing existing legislation—

“We consider that the current common and statutory law does adequately cover those working in the retail sector where offences occur. Additionally, we consider that judges already require to take account the circumstances of the offence, on conviction, which will include any aggravation where the offence is committed on any person who is required by nature of their role to interact with the public, such as asking for proof of age, or is involved in the sale of age-restricted products.”

Based on the perceived lack of enforcement of existing offences of a similar nature, one anonymous respondent stated—

“I'm not sure if creating a new offence will make any difference, as the existing laws are so seldom actually enforced. Police will seldom attend for low value shoplifting, so shops often don't even bother to report it to them, and I've never heard of any shop manager reporting an abusive customer to the Police, and can't see the Police treating it as any sort of priority if they did.” (173 – ID: 77683239)

#### *Protection for customers*

A few respondents provided examples of incidents in which a retail worker had abused their position or been abusive towards a customer. It was therefore considered that the rights of customers should also be protected.

#### **Question 2**

**Which of the following would you support as a way to respond to assaults on workers upholding statutory age-restrictions?**

- **A new statutory offence**
- **A new statutory aggravation**
- **Either**
- **Neither**
- **Unsure**

Of the 379 responses received to this question, 221 (58%) expressed support for a new statutory offence, while 27 (7%) favoured a new statutory aggravation<sup>1</sup>. 71 respondents (19%) indicated that they would support either of the two measures, 17 (4%) that they would support neither, and 43 (12%) were unsure which they would support.

Some respondents commented on assaults and/or abuse against retail workers in general rather than focusing on workers involved in the sale of age-restricted goods and services.

Other respondents answered this question (and question 3) by stating that they did not know what a statutory aggravation was or what the difference between an offence and an aggravation was.

#### **Support for a new statutory offence in response to assaults on workers upholding statutory age-restrictions**

##### *Deterrent effect*

A large number of respondents discussed the negative attitude often displayed towards workers in the retail and hospitality sectors and provided examples of occasions in which they, or their colleagues, had been subject to assault when involved in age-restricted sales. It was considered that the creation of a new offence was necessary as a means of making it clear that such actions were unacceptable and would have serious consequences for

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<sup>1</sup> A new statutory aggravation would mean that for cases where it was shown the victim was a worker involved in the sale or supply of age-restricted goods or services, the court must take that into account when determining sentence. This should lead, in most cases, to longer custodial sentences or higher fines as a penalty.

the perpetrator. It was hoped that this would lead to a reduction in such violent incidents, as one respondent, Steven Morrison explained—

“I believe a new statutory offence would significantly reduce levels of violence and aggression from members of the public if they believed that they could be prosecuted and face more severe fines or custodial sentences.” (Professional with experience in a relevant subject 54 – ID: 72657481)

The Scottish Grocers’ Federation (Organisation 5 – ID: 78851529) also felt that a new offence would have a deterrent effect—

“This will be the most effective and impactful approach in terms of an effective deterrent changing the culture and increasing awareness of the seriousness of this issue making the police and the judicial system take this issue more seriously giving shop workers the confidence to fully enforce their mandatory duties and to report incidents of crime in-store.”

#### *Reassurance for workers*

Many respondents considered that workers who uphold age-restrictions deserve extra legal protections. A prevalent view was that the creation of a new statutory offence would ensure that workers felt secure in carrying out their legal duties and would have increased confidence in asking for proof of age or in refusing sales, where appropriate. One anonymous respondent stated—

“[A]s shop workers we have the legal responsibility to uphold the law but do not have the safeguards in place to do so effectively, assaulting a police officer is a different crime so why shouldn't assaulting a shop worker who refuses to sell something in order to uphold the law, after all we will end up with the criminal record if we fail to do so.” (Professional with experience in a relevant subject 28 – ID: 72240038)

USDAW (Organisation 29) considered that the creation of a new offence would both reassure workers and deter customers from violent or abusive behaviour—

“[A] clear stand-alone offence would demonstrate to workers enforcing this requirement that they have the support of Parliament and send a clear message to anyone who may assault a worker enforcing the law that action will be taken.”

Others suggested that the introduction of a new statutory offence would encourage workers to report incidences of violence. The Federation of Small Businesses (Organisation 20) agreed that there is a “culture of under-reporting” and that “firmer action is required.”

### *Alternatives insufficient*

Respondents to this question were asked to choose between a new statutory offence and a new statutory aggravation. Some took the view that the introduction of an aggravation would not go far enough in tackling violence against workers upholding age-restrictions. For example, Stephen Allcroft stated—

“A separate offence shows that the law is taking the risks to shop workers seriously, a statutory aggravation is a halfway house and does not show enough will to get aggression towards shop workers stopped.” (96 – ID: 78035219)

StoneHalk Limited (Organisation 15 – ID: 79961676) suggested that the creation of a new offence would create “clarity and accuracy” which would “allow the police and justice system to support / process the offenders efficiently.” The Association of Convenience Stores (Organisation 25) agreed that a new offence would provide clarity and made reference to sentencing guidelines used in England where aggravating factors can be used to determine a sentence for assault but where “it is left to the Magistrate to decide whether to consider these when they determine sentencing.”

### **Support for a new statutory aggravation in response to assaults on workers upholding statutory age-restrictions**

The main reason given for choosing this option was that it would provide a means of using existing offences to create additional protections for workers subject to assaults while upholding age-restrictions, with some respondents suggesting that this would lead to a better chance of conviction. One anonymous respondent, amongst others, was of the view that “this will complement existing laws, without the need to draw up new legislation” (151 – ID: 77660772) with James Boyle agreeing that “legislation exists for assault, further defining the category of aggravation would seem proportionate.” (36 – ID: 77659887)

Others stated that creating an aggravation would be as effective as creating an offence in sending a clear message that certain behaviours were unacceptable. One anonymous respondent stated—

“Legislation is currently in place to deal with cases of assault however retail sector workers have a greater level of exposure to incidents of violence and there should be recognition of this. Assault against [retail sector] workers should be considered as an aggravating factor and sentencing guidelines should reflect this.” (216 – ID: 79508094)

Whilst not stating an outright preference for the use of a statutory aggravation, the Scottish Retail Consortium (SRC) (Organisation 30) pointed out several potential issues with the creation of new offences, including that the proposed offences are already covered by existing law, the risk of new offences causing confusion and that new offences would “require more elements to be

established (e.g. the link to age-related sales) for a conviction than the current, and well-established, ones do.”

The SRC went on to say that it considered the creation of a new statutory aggravation to be “a more achievable objective” which could be delivered faster than an offence, which would be easier to prove than an offence and which would work well within the current legal framework. It also suggested that the creation of a new statutory aggravation could lead to increased sentences “for incidents across a range of severity.”

### **Support for either option**

Some respondents were of the view that either of the proposed actions – creating a new statutory offence or creating a new statutory aggravation – would be appropriate.

Neil Bibby MSP set out the potential benefits of each option—

“Both a statutory offence and statutory aggravation would serve to increase the awareness of the issue of violence and abuse towards shopworkers and hopefully prevent abuse and violence. A statutory aggravation could increase the severity of punishment for existing crimes, while a new statutory offence would capture new offences such as obstruction. This may help to prevent an escalation in incidents which lead to disorder, abuse or violence.” (Politician 13 – ID: 79700369)

Whilst Unite the Union Scotland (Organisation 19) was in favour of a new offence it stated that it would support a new statutory aggravation should a new offence prove “procedurally and legally difficult to bring into fruition.”

ASH Scotland (Organisation 21 – ID: 80202856) answered this and the following question by stating that while it was supportive of the proposal to offer protection to workers involved in the sale of age-restricted goods, specifically tobacco, it did not wish to offer a view on the best way of delivering this.

### **Neither option**

Some respondents concluded that neither a new offence nor a new aggravation should be introduced. Reasons given echo some of the comments made in response to question 1, with respondents stating that existing legislation was sufficient to deal with all cases of assault and abuse and that the law should not be further complicated. One anonymous respondent stated—

“The law should cover all aspects of a retail worker acting within the role of their job. Assault is assault and all incidents should be treated the same. All public service workers or workers who have to deal with the public should come under the same scrutiny whether you are a

retail worker, nurse, policeman, social worker etc.” (Professional with experience in a relevant subject 41 – ID: 77662743)

Danny Roe (Professional with experience in a relevant subject 58 – ID: 79544144) did not think that the enforcement of age-restrictions was a particular trigger of violence and therefore considered it unnecessary to introduce legislation on the matter—

“It's a completely unnecessary measure. I've ID'd 1000's of people in my time working in the trade and, on occasion, there's a few idiots who might get upset but never have I ever been worried that I may be assaulted ... and I've been working in the trade for over 20 years.”

### **Question 3**

**Which of the following would you support as a way to respond to abuse, harassment, threatening or obstruction of workers upholding statutory age-restrictions:**

- **A new statutory offence (for all these types of behaviour)**
- **A new statutory aggravation for threatening or abusive behaviour or harassment; and a new statutory offence of obstructing a worker upholding an age-restriction.**
- **Either**
- **Neither**
- **Unsure**

Of the 379 responses received to this question, 207 (54%) expressed support for a new statutory offence for all the types of behaviour described, and 60 (16%) would support the more targeted measures of a new statutory aggravation for threatening or abusive behaviour or harassment and a new statutory offence of obstructing a worker upholding an age-restriction.

Sixty-five (17%) respondents supported either of the two measures, 22 (6%) supported neither, and 25 (7%) were unsure.

As with question 2, a number of responses to this question commented on assaults and/or abuse against retail workers in general rather than focusing on workers involved in the sale of age-restricted goods and services. In addition, a number of respondents referred to their answer to question 2 and provided no further comment.

### **Support for a new statutory offence as a way to respond to abuse, harassment, threatening or obstruction of workers upholding statutory age-restrictions**

The general view was that the creation of a new offence would be the best method of ensuring that workers upholding age-restrictions were protected against abuse and similar actions.

The Association of Convenience Stores (Organisation 25) referenced its 2018 Crime Report which found that 83% of staff in convenience stores had experienced verbal abuse whilst the Scottish Women’s Convention (Organisation 24 – ID: 80285556) stressed that this type of behaviour should not be treated any less seriously than physical assaults.

As with responses to previous questions, it was felt that the creation of an offence would have a deterrent effect which would lead to a reduction in aggressive behaviour and ensure that those acting abusively were held accountable and appropriately punished.

One respondent, Stephen Lawrence, explained his view as follows—

“Shop workers (and by extension anyone involved in the sale of age restricted goods) deserve the protection of the law they are expected to uphold. There are harsh penalties for failing on age restricted sales so these shop workers deserve to know that they will be protected when they make the choice to uphold the law which often places them at risk of verbal and physical abuse when they do so.” (26 – ID: 77522514)

In addition, Jacqui Skene considered that a new statutory offence was necessary to deal with abusive behaviour—

“People get away with so much in pubs because (as you’ve said) “it’s part of the job”. I’ve seen staff subjected to abuse that has left them in tears over minor issues, staff threatened with physical violence and even stabbed after shift. This needs to stop being considered acceptable.” (223 – ID: 79724503)

**Support for a new statutory aggravation for threatening or abusive behaviour or harassment; and a new statutory offence of obstructing a worker upholding an age-restriction.**

The comments made in response to this question were sometimes unclear. Most reiterated the need to have sufficient protection in place for workers and that abuse of workers was unacceptable. However, only a few commented specifically on why they considered a new statutory aggravation to be appropriate. Those who did suggested that, whilst creating a new offence was not necessary, there would be some value in creating a new statutory aggravation.

**Support for either option**

Most respondents who answered in this way said they did not have sufficient knowledge to choose which option would work best. Some took the view that either option was acceptable and expressed support for any positive action which could be taken.

## Neither option

The majority of respondents who answered in this way considered that there are already sufficient laws in place to protect workers, including those who are involved in the sale of age-restricted goods or services.

### **Question 4**

**Do you think that there are other steps which could be taken (either instead of, or in addition to, legislation) to achieve the aims of the proposal?**

There were 377 responses to this question. 157 (41%) were of the view that there were other measures which would meet the aims of the proposed Bill; 105 (28%) felt that legislation was the most effective means; and 115 (31%) were unsure.

#### *Need for legislation*

Many respondents took the view that separate legislation was required as current laws were not providing enough protection for workers.

One anonymous respondent noted that abuse had become worse in recent years and, as a result, workers had come to accept it as the norm, something legislation could help to counteract—

“It’s been far too long waiting for shop workers protection, over the years I’ve seen workers accept more and more abusive behaviour and almost become used to and accepting of [it]. I think this bill/ law should only be the start of more ambition as a society to protect workers. I would certainly support changing the law for all age related products having to show ID on every occasion making it a way of life to stop or reduce the amount of violence towards shopworkers.” (Professional with experience in a relevant subject 39 – ID: 77534476)

The Scottish Co-operative Party (Organisation 23 – ID: 80282617) considered that existing preventative measures and legislation were having little impact—

“We draw this conclusion based around the fact that such incidents against shop workers is on [the] increase across all sectors of retail regardless of geographic boundaries. Only new legislation can confirm the government’s commitment and change culture and behaviours effectively and quickly. Comparisons can be taken from the introduction of offences around road traffic issue, litter and anti-social behaviour. This proves that cultures and behaviours can be changed by the introduction of comprehensive legislation.”

#### *Awareness campaigns*

Many respondents commented that steps should be taken to raise awareness amongst the general public of the violence and abuse regularly faced by workers. It was suggested that an awareness campaign should be run highlighting the problem and that the personal stories of workers could be

used in order to help get the message across. Such campaigns could include posters, leaflets and the use of social media.

It was further suggested that, in addition to taking steps to educate the wider public through advertising campaigns, work could be carried out within schools in order to educate young people on this matter, as Alan Young suggested—

“Education, perhaps as part of a broader approach to acceptable and unacceptable behaviours, aimed at schools and youth groups. More community policing resources. Both of these in addition to the proposed legislation.” (62 – ID: 77679429)

#### *Role of employers*

There was an argument that employers should take more responsibility for safeguarding their staff against assault and abuse and that any new legislation would only be successful if businesses were committed to implementing it. For example, USDAW stressed the importance of ensuring staff felt supported by their employers when reporting abuse. Other suggestions as to how employers could support and safeguard staff included—

- Refusing entry/service to abusive customers (117 – ID: 72026179) and employing a ‘zero tolerance’ approach towards violent or abusive behaviour (45– ID: 77667885 (Kathryn Duffus))
- Increasing the use of CCTV cameras and employing additional security staff where needed (26 – ID: 77522514 (Stephen Lawrence));
- Placing a requirement on businesses to publish figures on how many incidences of violence occur (Professional with experience in a relevant subject 25 – ID: 71939982);
- Asking for proof of age at the entrance to shops selling age-restricted goods (162 – ID: 77665111);
- Ensuring staff are aware of their legal rights (167 – ID:77665295 ) and providing staff with training in violence de-escalation (174 – ID: 77682855)

#### *Role of the police and courts*

Reference was again made to existing laws which are in place to protect individuals against assault and abuse. It was the view of many respondents that these laws should provide sufficient protection for those working in the retail and hospitality sectors. However, it was suggested that more could and should be done to properly enforce these laws, with one anonymous respondent stating—

“There seems to be a push to create more and more "special cases" such as the police, health care workers, emergency services, shop workers, etc, rather than accept that all members of society, no matter their station, or "value" are entitled to the same protection under the law. What is needed is to ensure that we, as a society, are content that

the law has been applied fairly and equitably and that sentencing really does involve both rehabilitation and punishment.” (176 – ID: 77680547)

Some respondents suggested that the police should be given additional funding and training in order to help them deal with violent and abusive incidents. In addition, it was suggested that sentencing guidelines should be drawn up with specific advice in relation to violence against staff selling age-related items such as alcohol and tobacco.

#### *Changes to the sale of restricted goods*

Some respondents took the view that changes should be made to the way in which the sales of restricted goods and services, particularly alcohol, are administered. For example, it was suggested that all age-restricted sales should be subject to identification checks with one anonymous respondent suggesting that “ID could easily be incorporated into a bank card for example and could even electronically authorise the sale at a self-checkout with little intervention” (Professional with experience in a relevant subject 47 – ID: 77849590). Other suggestions included that it should be made an offence to not produce proof of age when required. (227 – ID: 80081280 (Chris Osborne)) and that alcohol prices should be raised, with sales restricted. (157 – ID:77662392)

#### **Question 5**

**Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have on:**

- **Government and the public sector**
- **Businesses**
- **Individuals**

#### **Government and the public sector**

There were 373 responses to this part of the question.

Fourteen respondents (4%) felt that there would be a significant increase in cost; 137 (37%) felt that there would be some increase in cost; 128 (34%) that the impact would be cost neutral; 21 (6%) that there would be some reduction in cost for this sector, and 13 (3%) that there would be a significant reduction. 60 (16%) were unsure what the financial impact would be.

Many respondents stated that the Scottish Government would have to invest in publicising any new legislation and felt that this would lead, at least initially, to an increase in costs.

A number of respondents considered that there would be costs associated with enacting and enforcing the legislation for both the police and prosecutors, particularly if the legislation led to an increase in prosecutions.

The Scottish Courts and Tribunals Service (Organisation 10) noted it would be financially impacted by the introduction of either a new offence or a new aggravation, specifically citing—

- court time and related court programming;
- associated staff and accommodation resources, and
- costs involved in relevant IT changes.

However, others took the view that the Bill would have a deterrent effect, leading to a decrease in the number of crimes committed. This would offset any initial costs involved with the creation of new legislation as the police and the courts would use fewer resources in dealing with such crimes.

Similarly, some respondents considered that a decrease in the number of assaults committed would mean that the NHS and emergency services would be required less, leading to a decrease in costs.

## **Businesses**

There were 369 responses to this part of the question.

Fifteen respondents (4%) felt there would be a significant increase in cost; 65 (18%) that there would be some increase; 144 (39%) that the impact would be cost neutral; 64 (17%) that there would be some reduction in cost and 26 (7%) that there would be a significant reduction. 55 (15%) were unsure what the financial impact would be.

Those who considered that there would be an increase in costs for businesses noted that they would have to invest in training and the creation of new policies. However, it was considered by many that any costs to businesses would be offset by other benefits, such as a decrease in violent incidents, leading to less disruption of day-to-day business.

In addition, many respondents considered that workers would be less likely to take sickness absences due to stress or injury following incidents of assault or abuse, and that this would lead to a decrease in costs for businesses. It was also suggested that there would be a decrease in staff turnover and a more contented, motivated workforce, both of which would benefit businesses financially.

## **Individuals**

There were 368 responses to this part of the question.

Ten respondents (3%) considered that there would be a significant increase in cost; 26 (7%) that there would be some increase; 187 (51%) that the impact would be cost neutral; 25 (16%) that there would be some reduction in cost, and 34 (9%) that there would be a significant reduction. 86 (24%) were unsure what the financial impact would be.

Similar to the responses which dealt with reduction in costs for businesses, many felt that individuals would save money as a result of new laws being put in place as they would be less likely to have to take time off sick due to injury or stress, and therefore risk loss of income. It was also noted that workers would be less likely to leave their job, again leading to a loss of income. Community Union (Organisation 22 – ID: 80279678) suggested that the extra protection for workers enforcing age-restrictions would mean that they would be more confident in upholding their legal responsibilities and therefore less likely to face a fine for failing to do so.

#### **Question 6**

**Are there ways in which the Bill could achieve its aim more cost-effectively (e.g. by reducing costs or increasing savings)?**

Of the 373 respondents who responded to this question, 46 (12%) were of the view that there were other ways in which the Bill could achieve its objectives more cost-effectively. 88 (24%) felt that there were no other measures which would meet the aims more cost-effectively and 239 (64%) were unsure.

There was a significant degree of repetition of points that were made in response to the previous question. In addition, some did not consider that the Bill would have any financial impact; with others stating that they did not have enough knowledge of the matter to comment or reach a view.

Among those who did provide further comment, a prominent view was that any costs would be offset by other benefits, such as the increased safety and security of individuals in the workplace. Suggestions made as to how the Bill could achieve its aims more cost-effectively included—

- Providing education on the relevant issues through, for example, a public information campaign or visits to schools, leading to increased awareness and promotion of the idea that it is not acceptable to assault or abuse retail workers or those involved in age-restricted sales (206 – ID: 77867322)
- Ensuring that companies ban abusive customers from premises (114 – ID: 71962204)
- Ensuring legal aid budgets are not cut (96 – ID: 78035219 (Stephen Allcroft))
- Monitoring the impact of new legislation once it was in place. (180 – ID: 77699933)

#### **Question 7**

**What overall impact is the proposed Bill likely to have on equality, taking account of the following protected groups (under the Equality Act 2010): race, disability, sex, gender re-assignment, age, religion and belief, sexual orientation, marriage and civil partnership, pregnancy and maternity?**

Of the 378 responses to this question, 209 (55%) felt that there would be a positive impact on equalities issues; a further 53 (14%) that the impact would be slightly positive; 80 (21%) that the impact would be neutral; 3 (<1%) that there would be a slightly negative impact, and a further 3 (<1%) that the impact would be negative. 30 (8%) were unsure what the impact would be in this context.

Many were of the view that the proposed Bill would safeguard people with protected characteristics who work in retail. It was suggested that customers were more likely to aim their abuse at certain people, for example, by being racially abusive or deliberately targeting someone because of their age or gender. One respondent, Roger West, noted—

“If it leads to a reduction of the total amount of offensive behaviour, sections of society who experience this to a disproportionately large degree may especially benefit.” (69 – 77707562)

It was also argued that some people, for example, pregnant women or disabled people, were more vulnerable and therefore would benefit from extra protection.(117 – ID: 72026179)

In addition, there was a perception that women were more likely to work in retail and therefore more likely to be protected by the Bill’s provisions. The Scottish Women’s Convention noted that—

“Given that a high proportion of women employed within these sectors fall under protected group characterisation for reasons other than gender, it is hoped that this Bill will go a long way to protecting said women. BME [Black Minority Ethnic] females, for instance, can face overwhelming double discrimination for both their race as well as gender due to persisting societal, cultural and structural inequality.”

It was also thought that the Bill might be particularly beneficial for young people, as one anonymous respondent stated—

“Better protection for young people who are likely to work front of house in retail and in hospitality, and may feel less equipped/confident to enforce age restrictions due to abuse and intimidation compared to older, more experienced colleagues.”(218 – ID 79647551)

There were a limited number of comments on the potential negative effect the Bill could have on equalities with one anonymous respondent questioning the ‘equality’ of protecting certain groups (e.g. those involved in the sale of age-restricted goods) but not others (113 – ID: 71936967). Another anonymous respondent, who was unsure of the potential impact, suggested that workers and businesses may use the extra protections as an excuse to “discriminate” against customers “without fear of repercussion” (163 – ID: 77660505)

### **Question 8**

**In what ways could any negative impact of the proposed Bill on equality**

## be minimised or avoided?

There were 166 responses to this question. Only a few additional points were made beyond those covered above, many of which focused on the impact of the Bill in general rather than on equalities. Some points made included—

- The Bill, and any surrounding publicity campaigns, should not focus solely on certain groups and should cover all workers regardless of whether they were considered to be protected under the Equalities Act—

“My feeling is that again it needs to be presented in the context of increasing public civility. I'd have some concern that this might be seen as legislation aimed at stereotypical anti-social people with low incomes and low levels of education "who might kick off because they can't buy alcohol". If the legislation covers all workers then it would be seen to include the anti-social behaviours of more advantaged members of society who can be equally obnoxious.”(209 – ID: 78005934)

- The new legislation should be widely publicised and other steps should be taken to educate the public on it (206 – ID: 77867322)
- As one anonymous respondent put it, the negative impact could be reduced by—

“ensuring that the law protects everybody equally, consumers and service users as well as workers and service providers. Maybe we could look into making antagonising behaviour towards consumers and service users an offence too?” (163 – ID: 77660505)

- Training should be provided on the new legislation for both workers and police (137– ID: 76688881)

## **Question 9**

**Do you consider that the proposed Bill can be delivered sustainably, i.e. without having likely future disproportionate economic, social and/or environmental impacts?**

Of the 376 respondents who answered this question, 289 (77%) were of the view that the Bill could be delivered sustainably; 17 (4%) felt that the Bill could not be delivered in this way, and 70 (19%) were unsure.

There was further focus on the positive effect the Bill would have in helping employees to feel safe and secure in their workplace as the amount of violence and abuse they experienced, or were witness to, would reduce. In addition to improving the health and wellbeing of individuals this would lead to fewer staff absences and reduced staff turnover which would be beneficial to both businesses and employees. Others considered that the Bill would

encourage better behaviour in individuals by deterring them from abusing or assaulting workers, this in turn would have a wider, beneficial effect on society. Monica Lennon MSP was of the view that the Bill could have positive social and economic impacts—

“This proposed Bill has the potential to positively impact local economies. The retail sector plays a vital role in local communities, from the small family run businesses to the large supermarkets. Ensuring the protection of workers and supporting them to do their jobs without fear of abuse or violence could potentially see a decrease in the number of minors being able to purchase alcohol, and may see a reduction in social harms.” (Politician 10 – ID: 79589558)

The Tobacco Retailers' Alliance (Organisation 28 – ID: 80279452) also commented on the positive effect changes made by the Bill could have on local communities—

“Deterring crime and will strengthen and protect small retailers who play a vital role in providing local neighbourhoods with goods and act as a focal point for engagement and community spirit. This will be good socially and economically.”

Others commented on the potential for long-term change and a positive cultural shift, with one anonymous respondent stating—

“With the appropriate campaign and public messages, the Bill has potential to increase social cohesion, reduce crime and reduce costs to public and private sectors and individuals.” (ID: 206 – 77867322)

Those who considered that the Bill could not be delivered sustainably referred to their general opposition to the Bill a whole, suggesting, for example, that it was “a change for change’s sake,” (113 – ID: 71936967) and that less rather than more legislation was required.

#### **Question 10**

**Do you have any other comments or suggestions on the proposal, for example, other trigger points for violence or abuse, and other workers who should be covered?**

There were 196 responses to this question. Many used their response to reiterate their support or opposition to the proposal with a number of respondents giving examples of their own negative experiences working in the retail or hospitality sectors.

A predominant view was that there was a need to protect many different groups of workers against violence and abuse and that the proposal should therefore not be limited to retail workers or those involved in the sale of age-restricted goods or services. Many respondents made suggestions about which other workers should be subject to such legislation. These included, but were not limited to, security staff, teachers, hospital workers, call centre

workers and transport workers. Many called for the protections to be extended to all workers who provide a public service, with Unite stating—

“The underlying principle should be that if dealing with the public or serving the public is part of the job specification then the protection is applied. Until greater protective measures and offences are introduced, then the vast majority of public service workers employed outside the parameters of the Emergency Workers Act will continue to be more prone to incidents of violence.”

The Scottish Retail Consortium made several comments relating to how the Bill could be extended in order to offer additional protections, for example to protect workers enforcing requirements other than age restrictions.

Other points made included—

- The Bill should extend to the abuse, not just the assault, of retail workers in addition to the abuse and assault of those involved in age-restricted sales (118 – ID: 72316335 )
- More responsibility should be placed on employers to ensure the safety of their employees (113 – ID: 71936967)
- Wider societal issues such as poverty and alcohol and drug abuse were at the root of violence and abuse and must be tackled. (45 – ID: 77715172)
- Specific measures should be put in place aimed specifically at protecting workers against armed robbery. (115 – ID: 71971629 )
- Other trigger points to violence and abuse were cited including – refusal of service, ID checks, closing time, enforcement of licensing restrictions for under 18's, dealing with loud / foul language / disruptive customers (Professional with experience in a relevant subject 60 – ID: 80156413)

#### **Question 11**

**Which of the following describes your retail-sector experience (please tick all that apply)?**

- **Working in premises selling alcohol for consumption on the premises (e.g. pub)**
- **Working in premises selling alcohol for consumption off the premises (e.g. shop)**
- **Working in premises selling other age-restricted products (e.g. tobacco, knives etc.)**
- **Working in other retail premises**
- **None of the above**

Of the 369 people who answered this question, 101 (27%) had worked in premises selling alcohol for consumption on the premises; 119 (32%) had worked in premises selling alcohol for consumption off the premises; 119 (32%) had worked in premises selling other age-restricted products; 115

(31%) had experience of working in other retail premises. 131 (35%) had not worked in any of these sectors.

**Question 12**

**Which of the following describes your experience of violence or verbal abuse in the retail sector (please tick all that apply)?**

- **I have been the victim of physical violence**
- **I have been the victim of verbal abuse**
- **I have witnessed colleagues being subjected to physical violence**
- **I have witnessed colleagues being subjected to verbal abuse**
- **None of the above**

Of the 366 people who answered this question, 76 (21%) had been the victim of physical violence, 182 (50%) had been the victim of verbal abuse, 118 (32%) had witnessed colleagues being subjected to physical violence, and 212 (58%) had witnessed colleagues being subjected to verbal abuse. Only 121 (34%) had no experience of any of these types of situation.

**Question 13**

**Please give details of any experience that you would wish to share.**

A number of the examples cited were instances in which customers were drunk or were refused sale of alcohol or other age-restricted goods as particular triggers of violence and abuse. However, many other examples related more generally to retail work. A flavour of the comments made is provided below, including—

*Regular verbal abuse, threats and intimidation, being sworn at, shouted at and subject to name calling*

“[It’s] not unusual for customers to shout or get aggressive towards myself and colleagues when things don’t go their way - more than once I’ve comforted colleagues crying in the back of the store” (135 – ID: 76359025)

“Refusal of a sale of restricted goods most often ends in a barrage of abuse and threats of violence against myself and my young children. After refusing to sell a drunk man alcohol he threatened to slit my throat and rape me, started throwing things around the shop then as he was so drunk he fell over and had to be carried out of the shop by his friend.”(109 – ID: 71918257)

*Racial abuse and use of other derogatory language*

“I was racially and verbally abused for trying to explain to a customer that there was a minimum spend if he paid by credit or debit card. Although there were two free options available to lift cash without charge i.e. the Post Office in the shop or a free to use ATM machine he

simply refused to listen and carried on with a torrent of racial verbal abuse.” (11 - ID: 73637481 (Rana Ahmed))

*Being physically assaulted including punched, headbutted, pushed, having things thrown at them and being spat at*

“On one occasion it took over five members of staff to restrain one violent individual. He was arrested but was back in the store within days and was posting threats about attacking staff again on social media.” (157 – ID: 77662392)

“Having worked in retail for over 15 years I've seen everything from colleagues being grabbed over the counter to hot drinks being thrown and full scale brawls breaking out in shops at the weekend.”  
(Professionals with experience in a relevant subject – 47 – ID: 77849590)

“Verbal and physical abuse [is] very common, a couple of weeks ago, a young customer was asked for ID, he ended up smashing 4 bottles of wine up, threw one back at the checkout staff, luckily no one was injured, on the way out he decided to kick the glass on the front door. Often when they know they will be challenged they try and make for the door and end up stealing the product.”(103 – ID: 79201541 (Saleem Sadiq))

*Being followed and threatened with assault outside the workplace*

“A further example is historically dealing with a shoplifter, [who] threatened that they would follow me home and make me sorry for reporting them to the police. Things like this can make you very unsettled and it is not right colleagues are put in this position where shop workers are scared to do their job because a customer could kick off.” (Professionals with experience in a relevant subject 32 – ID: 73300768)

*The use of weapons including incidences of armed robbery*

“[The] Shop has had in the last ten years: two armed robberies, three assaults, average of one verbal abuse a week” (11- ID: 75895936 (Abdul Majid))

## SECTION 4: MEMBER'S COMMENTARY

Daniel Johnson MSP has provided the following commentary on the results of the consultation, as summarised in sections 1-3 above.

I would like to thank all those who contributed their thoughts on my proposal. From individuals who had been witnesses or victims of violent attacks to some of Scotland's largest retailers, from trade unions to lawyers, the breadth of the responses was encouraging. This consultation has engaged over 1,000 respondents who have taken the time to give their opinions, and while I am unable to thank every one of them individually, I hope that their input will help create a better and more effective bill to protect people at work.

I am particularly pleased to have achieved such a large response, but also such a positive response. 95% of those who engaged with the consultation responded positively to the proposal, with just 2% opposed. Support came from all areas including 97% of individuals and 90% of organisations which included support from major supermarkets, trade unions, academics, pub and bar owners, and politicians.<sup>2</sup>

Among this, I was especially interested to read the personal cases of abuse, violence and threats that aren't being dealt with well enough under our current system.

- "I have been verbally abused, assaulted, intimidated and treated like a lesser human being while employed in retail for 26 years"
- "I was once head butted by a customer after telling her that she would not be served any more alcohol as I believed she was too drunk"
- "I was once punched in the face by a customer after asking him to leave the premises"
- "I asked a male for his ID as he appeared to be under 25 when buying alcohol. His response was to punch me in the head causing damage that needed stitches and leaving permanent scarring"

This has further reinforced my view that this legislation is necessary and taps into a strong public feeling of being let down by the current criminal justice system.

Furthermore, I was interested by the suggestions, both informally and formally through the consultation about different groups of workers that also are keen on additional protections through legislation. It is not my intention to capture

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<sup>2</sup> Note from NGBU: the percentages given in this paragraph differ from those set out in Part 2 of this document, which summarises only the 385 substantive responses to the consultation and doesn't include the 632 "postcard responses" that were also received (as explained on page 3)".

every group that suggested this to me in this bill, as to do so would not serve the interests of those original people who this proposal set to protect.

However, I am interested in using this bill to capture groups of workers who were perhaps not foremost in my mind when I set out, but could easily fall into a broad definition of retailers – for example betting shop workers, transport workers, bank tellers and pharmacists. I will examine at the drafting stage how possible it is to include these groups.

For other groups, I am keen to work with trade unions and other professional bodies to see where the evidence suggests that complementary legislation could be brought in the future.

In conclusion, I am very pleased with the consultation responses I have received, and look forward to continuing to work closely with stakeholders as I hope to draft and introduce a bill in the coming months.