

ECONOMY, ENERGY AND FAIR WORK COMMITTEE

PROTECTION OF WORKERS (RETAIL AND AGE-RESTRICTED GOODS AND SERVICES) (SCOTLAND) BILL

SUBMISSION FROM **Usdaw**

Introduction

Usdaw is the UK's fifth largest trade union with 413,000 members. Usdaw is one of Scotland's largest unions, with members mainly working in Retail. We also have significant membership within Road Transport, Distribution, Food Manufacturing and Call Centre operations.

Usdaw welcomes the proposals set out in the Protection of Workers (Retail and Age-restricted Goods and Services) (Scotland) Bill. We have been running our own Freedom From Fear Campaign, focusing on the issues caused by retail violence, for over 15 years. The Freedom From Fear Campaign seeks to highlight the abuse that workers suffer whilst simply going about their jobs. The campaign aims to tackle the idea that 'abuse is part of the job' and promote practical ways to prevent abuse.

A key political goal of the campaign has been to deliver a new law to protect workers by creating a specific offence, with serious penalties, relating to assault on people whose work brings them into face-to-face contact with members of the public. This would create a specific and easily understood criminal offence to assault any such worker.

Background

Over recent years, Usdaw's annual Freedom From Fear survey has shown that threats, abuse and violence against shopworkers continues to be a widespread and an increasing issue for retail workers. Since 2015, we have seen the number of workers experiencing verbal abuse increase from just over half to around two-thirds, whilst the number threatened during the course of their duties increased by around a third. Overall trends show increases in abuse, threats and violence which cannot be ignored.

This picture of unacceptably high levels of violence and abuse towards shopworkers is supported by data from the British Retail Consortium's Retail Crime Survey and the Association of Convenience Stores' Crime Report.

Usdaw believes that workers whose job means that they interact with the public directly need specific legal protections from abuse and violence whilst carrying out their jobs. This applies particularly to workers whose job requires them to enforce the law, for example retail workers enforcing age-restrictions on certain products. The enforcement of legal restrictions commonly causes a flashpoint where workers are at increased risk of abuse and violence. Retail workers are in a position where they are legally required to undertake such checks, irrespective of the risk to personal safety.

Where workers are legally required to undertake such checks, Usdaw firmly believes they should be given enhanced protection, as proposed in the draft Bill, through an aggravated offence. As such, there is a clear duty for the Scottish Government to provide protection to people going about their working lives

Throughout this response, Usdaw refers to our most recent survey of shopworkers. This survey took place over the course 2019 and almost exclusively involved face to face

conversations with retail staff affected by issues of threats, abuse and violence. We also refer to evidence from members ahead of our submission to a Westminster Government consultation on violence and abuse against shop staff. This evidence was also gathered last year. Whilst the proposed action from the Westminster Government would have only applied to England and Wales, Usdaw collected evidence from workers in Scotland, Northern Ireland, England and Wales. The result from the evidence collection exercise were consistent with responses to other surveys.

Summary of Our Response to the Call for Evidence

Usdaw has significant levels of data and personal anecdotes from members which help provide detail on the real life experiences of the violence and abuse faced by retail staff in their working lives.

As mentioned above, Usdaw conducts an annual Freedom From Fear survey which tracks the growing incidence of threats, abuse and violence against retail workers. This annual survey has been carried out predominantly through face-to-face interviews since 2007. The 2019 survey was completed by over 1,000 Scottish retail workers. The headline results across Scotland showed that:

- More than 6 in 10 Scottish retail workers experienced verbal abuse.
- 32% were threatened by a customer.
- 2.3% were assaulted, which amounts to more than 15 assaults every day across all of Scotland's shopworkers.

Behind these figures, retail workers also detailed their personal experience of the type of incidents they face on a daily basis. The following quotes have all been provided by Scottish Retail Workers:

Aberdeenshire - "Refused customer alcohol as they were drunk they tried to grab my hair and grabbed hold of my shirt."

Fraserburgh - "Refused customer cigarettes and they started shouting and swearing".

Stenhousemuir - "His scotch pie, was not hot, he threw it back at me, and it hit my face."

Glasgow - "Got flashed by a customer, have had customers grab me and comment on my breasts."

Glasgow - "Shoplifter tried to headbutt and kick me whilst he was being detained. Threatened to find my family using social media and slash their faces."

Dunfermline - "A customer once told me he wished I'd go away and kill myself for trying to do my job helping him."

Greenock - "Was attacked and a fag stubbed out on my face."

Dundee - "I have had customers shout at me if something doesn't go right and called many names, such as b***h and c**t."

Edinburgh - "I have been stopped in the street going home and verbally abused by a family member of a shoplifter that I had caught previously that day. I feel very uncomfortable being put in that situation as these people know where I live and are known to be violent!"

The above quotes all show that retail workers are incredibly vulnerable to violence, threats and abuse from customers, however at the moment they receive very little protection. As highlighted in the final quote above, retail staff remain vulnerable long after they have finished work. Usdaw is clear that there needs to be a legislative response to the risks faced by retail workers and beyond this, that appropriate resources need to be put in place to ensure that the legislation is enforced appropriately.

In the context of the high, and increasing, level of violence and abuse experienced by retail workers, we believe that serious action needs to be taken. Our evidence shows that the violence and abuse that retail workers face is persistent, perennial and compounded by an attitude that it is actually not that serious and that it constitutes a part of the job that should be expected and accepted. Because of this, we firmly believe that the provisions of the draft Bill, creating an offence for a person to assault, threaten, abuse, obstruct or hinder a retail worker, with an aggravated offence in relation to enforcement of statutory age restriction, must be implemented. Specifically, we continue to believe that only a specific offence of assaulting a public facing worker in the course of their duties will have the required effect in terms of improving the attitude towards the seriousness of the offence and as a deterrent to those who see retail workers as an easy target.

Last year, we encouraged members to complete a survey to help provide evidence to the Westminster Government's Call for Evidence on Violence and Abuse against Retail Staff. We received 3,273 responses to our survey. This exercise showed that 62% of retail staff have been victim of verbal or physical abuse with a staggering 80% reporting that they believe abuse and violence has increased in recent years. This is clearly an unacceptable situation and requires meaningful action to be taken to tackle it.

Responses identified apathy as a serious factor affecting the ability to effectively deal with the issue. 31% of respondents said that they did not report the incident to management in their stores. The most common theme amongst the reasons given for this were variants of 'there's no point' and 'nothing gets done'. This is indicative of an endemic, widespread attitude that abuse of retail workers is not serious and clearly creates a vicious cycle which is counterproductive to the aims of having incidents reported and effectively dealt with.

Only 34% of victims responded saying that they had reported the incident to the police. Of the 66% who did not report, the most common theme was that they did not think it was a police matter. This perception is part of the attitude mentioned above which minimises the seriousness of abuse experienced by retail workers.

Usdaw believes that the most effective way of securing a response to incidents of violence and abuse against retail staff is the creation of specific offences as detailed within the draft Bill.

There is a clear, corroborative link between the responses received as part of the work we have conducted on the Westminster Government's mentioned above and the results of our annual Survey of Violence and Abuse Against Retail Staff.

There is a close alignment in the results from both pieces of work showing a strong level of consistency regarding the experiences our members on the frontline of retail.

We recognise that there are good examples of efforts being taken to improve the situation in a number of areas across the country. However the scale of the problem means that there needs to be a legislative solution which can provide a consistent response across Scotland.

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

There can be no doubt that the level of violence and abuse has increased in recent years. Our 2018 Freedom From Fear survey, which was based on face-to-face interviews with 6,725 shop workers, showed that over the previous 10 years, the results had been remarkably consistent. Typically between 50-60% of workers reported at least one incident of verbal abuse in the last 12 months and 30-35% reported at least one incident of threat of physical violence in the last year. If there was any trend it was toward a slight decline in reports of abuse and threats. However, in 2017 we found a disturbing and significant increase in both abuse and threats. 66% reported verbal abuse and the proportion reporting threats of physical violence shot up to 42%. The levels of abuse and threat have stayed at this heightened level in 2018 with 64% reporting verbal abuse at least once in the last year and 40% threats of physical violence.

Looking particularly at Scotland, our 2018 survey found that that on average Scottish shopworkers were verbally abused, threatened or assaulted 21 times last year, which is nearly once a fortnight. Breaking down the figures further:

- 70% of Scottish shopworkers experienced verbal abuse (which is the worst in the UK),
- 42% were threatened by a customer (which is above the UK average),
- with 18 assaulted every day.

These figures are consistent with the initial analysis of our 2019 Freedom From Fear Survey along with the evidence we gathered as part of our response to the Westminster Government's consultation on Violence and Abuse against Shop Staff last year. The responses to our shortened version of the Call for Evidence confirmed this experience. 80% of respondents agreed that the problem has increased in recent years. Of those that gave opinions on the reasons for this increase the majority referred to increased levels of aggression and violence in society in general, often attributed to increased lack of respect or a greater sense of entitlement. There was also mention of the effects of austerity and associated financial hardship.

In terms of specific themes identified by respondents regarding the increase in abuse, the following came up repeatedly:

- Perpetrators felt there was no effective legal deterrent resulting from failures in the criminal justice system or cuts to police responses.
- Increasing levels of theft and robbery from shops and increased aggression from shop thieves much of it fuelled by drug and alcohol misuse.
- Increase in the range of products subject to age restriction and increased aggression when enforcing the law on age restriction.
- Cuts in staffing levels, especially the removal of uniformed security guards as a cost cutting measure.

"I've worked retail for 13 years in lots of different areas, and in the last three years I've been threatened more times than the previous 10. There have been occasions where due to staff cuts no security or male members of staff have been present and men have been hanging around waiting for women to finish work. We're having to go outside in large groups or call managers to help us more and more."

"I've worked in the same store for 6 years, for almost 5 of those I never had a single incident of abuse, since then I've lost count. People are more entitled than they used to be and much angrier. Drugs and alcohol play a large part as well."

"I have worked in retail for 20 years and I have first-hand experience of the issue. In the last four years I have had more abuse and threats made against me than in the rest of my experience combined."

"Because most youth centres have been shut down, homelessness is at its highest, drug use is on a high and the Government have no idea how real people live."

The changing nature of retail has led to an increase in both lone working overnight and delivery drivers serving customers at their doorstep. Both of these are incredibly intimidating situations in which staff are threatened or abused as a result of enacting a legal obligation. A new statutory offence would add protection to these workers in particular.

Usdaw believes that there is a clear need for an effective deterrent against the recent increase in violence threats and abuse against shop staff. Usdaw believes that the Bill as drafted, backed up by strong enforcement, will have a significant impact in tackling the issue. Usdaw is supportive of the Bill as drafted.

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

Yes. Usdaw is clear that the current offences are not protecting shopworkers and, in fact, are leaving vulnerable to unacceptable levels of abuse and violence in the workplace. As outlined above, retail workers are facing ever increasing levels of assault, abuse and violence, something which is not being tackled by the existing offences regime.

Usdaw is aware of the range of civil tools available to tackle harassment, stalking and unacceptable behaviour. We are not aware of any examples in Scotland where an employer has supported their staff in applying for a non-harassment order or an interdict. The current process of applying for an order or interdict is prohibitively costly and complicated and therefore fails to protect shopworkers as they go about their daily jobs.

We are aware of the Community Justice (Scotland) Act 2016 which requires local Community Justice Partnerships to implement Community Justice Outcome Improvement Plans. However, from reviewing available information, Usdaw can find no mention of tackling retail crime or working with local retailers and staff in any reports or activities arising from this. For example, this [2018 report of activities](#) from the Convention of Scottish Local Authorities makes no mention of retail crime or protecting shopworkers.

Similarly we are aware of the criminal offences that could apply when shop workers are assaulted, threatened or harassed. However, our members' experience, which is backed up by the responses outlined above, is that the law is failing vulnerable workers. Many incidents are not even reported to the police. When they are the police response is often unsatisfactory because of their resource problems. Cases which do progress to trial often result in sentences which the victims consider unsatisfactory.

Usdaw is aware that currently, neither the Scottish Sentencing Guidelines nor the Victims' Code for Scotland makes reference to additional protections or provisions available to victims of crime whilst at work. A new statutory offence as outlined in the Bill would help to tackle this current lack of provision.

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

Usdaw believes that the creation of such an offence will send a clear message, to both the public and to retail staff, that abuse is not part of the job. Over recent years, Usdaw has

themed our annual Respect Week around the message that 'abuse is not part of the job'. As part of the Respect Week, Usdaw reps run around 1,000 stalls in retail premises across the UK, educating the public about the impact of abuse against shop staff.

The theme clearly resonates with the public, with tens of thousands of people signing petitions which call on politicians to take action to tackle the issue. The campaign also resonates with our members who understand the need to reinforce a simple message that they are not there to be abused.

As noted in our response to question 2, the current list of offences is not providing adequate protection for retail staff, who due to the nature of their work are at increased risk of such abuse. Usdaw believes that the creation of such an offence will send a clear message to employers, retail workers and customers that abuse is not part of the job. Furthermore, it will act as a clear deterrent to anyone minded to assault, threaten, abuse, obstruct or hinder a retail worker.

4. Should any new offence include all of the elements proposed in the Bill (e.g. should obstructing or hindering a retail worker be a crime, as is already the case in relation to various providers of emergency services)?

Yes. There should be no element of abusing or threatening a retail worker which is not covered by the Bill.

5. Is the focus on retail workers appropriate (e.g. is it too narrow in not covering other workers who may, because of their work, be vulnerable to abusive behaviour)?

Usdaw believes that all workers should be able to go about their jobs free from fear of harassment, abuse, threats or violence.

In terms of this specific Bill, Usdaw believes that the current definition of retail worker is sufficient, however we would support other Bills which offered protection to different types of at risk workers.

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

Our members frequently tell us that enforcing restrictions on age-related sales is a common flashpoint for retail workers. The following quotes were provided by Scottish members as part of the 2019 Freedom From Fear survey.

Broxburn - "Customers very aggressive when refused sale of age restricted products, particularly alcohol. They think it's ok to shout and swear at you using language that is disgusting and personal insults." **Fife** - "ID'd someone who looked about 19, called a 'ginger c**t'." **Fraserburgh** - "Refused customer cigarettes and they started shouting and swearing". **Stranraer** - "I was sworn at when I refused sale of a restricted item without ID".

In Scotland, Challenge 25 is a legal obligation for retail workers, and they can be prosecuted if they do not comply. Therefore, the retail worker has no discretion over choosing whether to put themselves in a situation whereby they are likely to receive the type of threats and abuse mentioned above. In other roles of law enforcement, such as a police officer, the officer can use their discretion to determine whether to intervene in situation. This discretion can be

based on concerns for their own personal safety along with other concerns. Where retail workers do not have such discretion, the proposed aggravation is very much necessary.

The proposed aggravation would demonstrate to workers enforcing age restricted regulations that they have the support of Scottish Parliament. It would also send a clear message to anyone who may assault a worker enforcing the law that action will be taken.

7. What are the financial implications of the proposals?

Usdaw believes that the Bill can have significant financial benefits for employers, workers and the broader economy. Work-related violence represents a real cost to employers, leading to increased sickness absence, low staff morale and high staff turnover. In turn, these can affect the confidence and profitability of a business, and may be further compounded by expensive insurance premiums and compensation payments. Furthermore, the time taken up recording and reporting instances of retail violence, providing support for employers who have been a victim of retail violence and updating procedures, facilities and working practices to eliminate the issue are all a taking resources away from effectively running the business. The current lack of a deterrent is proving a significant cost for many retailers. Therefore the proposed Bill will bring about a positive financial impact on retailers.

Shop workers are experiencing significant levels of stress and anxiety as a result of violence and abuse suffered as part of their job role. Shop workers have reported being increasingly tense and irritable at home, becoming tearful for no apparent reason, short-tempered with family members, and reluctant to go out in public. Furthermore, retail staff report being unable to attend work and having to use sick leave or exit the workforce. This is a cost not only to the individual and their household but to the wider economy.

The broader economy is not only impacted through lost working days and undelivered productivity, but is also left having to fund additional health care provisions for those who have been physically or mentally affected by threats and violence. Furthermore, as the cost of tackling retail crime increases for employers, some retail stores are no longer profitable and therefore having to close. This results in lost jobs and dwindling high streets, something that is significantly affecting local communities.

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

Usdaw believes that the proposals contained within the draft Protection of Workers Bill will only provide one part of the solution to the overall issues faced by retail workers. Usdaw is incredibly keen to ensure that, once implemented, the provisions within the Bill are enforced through effective community policing that focuses on the requirements of the retail sector and retail workforce.

In addition, the union is heavily involved in promoting partnership working across the industry to tackle the issue. We fully understand that whilst the industry requires a strong legislative foundation to tackle the issue, the sector needs to come together and act in the face of continued crime. Our work with bodies such as the Scottish Retail Consortium, the Association of Convenience Stores as well as employers such as Tesco and Co-op shows that employer led initiatives are taking place in co-ordination with worker representatives. Usdaw believes that, whilst there is a clear need to employer efforts to tackle these issues, employer led initiatives will only be successful if the correct legislative provisions are in place and operating effectively.

9. Are there any other aspects of the Bill you would like to comment on?

In addition to the above, we have some suggestions on points of detail:

- **clause. 1(1) and (2) etc** – the new offence will only apply where the victim is “engaged, *at the time*, in retail work” [our emphasis]. We fully understand the need to tie in the offence with the individual’s role in some way however are concerned at the temporary wording of the current draft. Usdaw has many anecdotes from our members who experience instances of violence and abuse which while related to their job role, take place outside of the time they are engaged in retail work. For example, as listed above, the following quote was received from a member in Edinburgh, “I have been stopped in the street going home and verbally abused by a family member of a shoplifter that I had caught previously that day. I feel very uncomfortable being put in that situation as these people know where I live and are known to be violent!”