Further Evidence to the Women and Equalities Select Committee Inquiry into ‘Sexual harassment in the workplace’

Following the publication of the Select Committee’s report on sexual harassment in the workplace in July 2018, the Women and Equalities Select Committee has asked for a follow-up briefing on what more Ofsted is doing to tackle sexual harassment in the sectors it regulates and inspects.

When setting this out, it is important to separate the different remits that Ofsted covers. The way that Ofsted would approach allegations of sexual harassment in schools, in early years providers, in social care providers and within Ofsted, differs. We are confident that how we approach concerns around sexual harassment in each of the providers we inspect and regulate meet our duty under the Equality Act.

Schools

Ofsted does not regulate schools; that responsibility falls to the Department for Education. As set out in our previous written evidence, the focus of Ofsted’s inspection is primarily the education and safety of pupils. Any indication of inappropriate behaviour involving a child would be very carefully scrutinised in our consideration of a school’s safeguarding provision.

Gathering evidence or information relating to the sexual harassment of staff by other staff is not a specific focus for inspectors when inspecting schools. There are other, more appropriate, avenues for teachers and other staff to take action where they have concerns that allegations are not addressed. Given that Ofsted is not the regulator of schools, we would be unable to take forward the committee’s recommendation to remove the regulated persons accreditation in cases of sexual harassment. However, our work as an inspectorate is important in scrutinising school practice and how leaders and managers ensure a safe environment which is conducive to learning. We carry out this scrutiny through our routine inspections, but can also respond to complaints about a school, including where a complainant identifies potential sexual harassment, by inspecting the school.

Ofsted’s framework specifies a clear set of descriptors for an outstanding or good school. These include that the school demonstrates ‘positive relationships between leaders, staff and pupils’, and that leaders ‘set high expectations of their pupils and staff’ and ‘create a culture of respect’. These describe a school that takes its staff’s right to a safe working environment seriously and where leaders, staff and pupils do not tolerate prejudiced behaviour.

All Ofsted inspectors are trained to inspect schools’ safeguarding practice; this includes working through pupils’ case studies, which may include examples of sexual harassment. Inspectors have a duty to report on whether schools effectively safeguard and promote the rights and welfare of children. If children are in an environment where sexual harassment is taking place among the workforce, we would consider this a safeguarding concern. In the relatively rare instances that issues are identified with how a school deals with sexual harassment allegations, it will become a priority area for inspectors to pursue this through the inspection.

Early years

Ofsted is the regulator of early years provision. It is our duty to determine whether a provider or potential provider is ‘suitable’ to be registered or be associated with registered
provision. ‘Suitable’ for these purposes is not defined by the relevant regulations, and so sexual harassment is not explicitly mentioned. However, we would consider any allegations of sexual harassment as relevant in deciding whether that registered provider was suitable, and if sexual harassment was proven then it could render the person unsuitable.

While we do not regulate the suitability of people who work for the registered provider – that is the responsibility of the provider themselves – during inspection, we look at whether providers can show that they have effective systems in place to ensure staff are suitable. If a provider was not dealing with allegations of sexual harassment appropriately it could impact on our assessment of the provider’s suitability.

**Social care**

Inspection of social care providers does not explicitly look at how employers protect workers from sexual harassment. However, if this were to arise during an inspection, then the issue would be investigated and could affect the provider’s inspection outcome, or where we register the provision, such as children’s homes, the provider’s continued suitability to be registered.

If the issue was highlighted through a complaint/whistleblowing incident, then appropriate action, such as bringing forward the timing of the planned inspection, would be taken and the matter would be considered as part of the inspection. However, in all probability, this would be one of a number of contributory factors leading to such action being taken.

**Ofsted as an employer**

We are committed to providing a safe working environment for all our workforce. Our internal anti-bullying and harassment policy has a zero-tolerance approach to all forms of harassment.

We also apply a variety of pre-employment checks when recruiting inspectors. These include full employment history and references, psychometric tests and background checks.