

EUROPEAN PARLIAMENT

Women and Brexit

Assessing the Impact of Brexit on Women and
Gender Equality in the UK

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Introduction

This report challenges the notion of a ‘gender-neutral Brexit’ by illustrating the gendered impacts of both mainstream and marginalised aspects of the Brexit process and its consequences for women in the UK. It will analyse the legal, economic, and social impact of Brexit on women, paying particular attention to areas where women are *specifically* and/or *disproportionately* affected. These areas have been largely excluded from media coverage and public debate on Brexit, and have received little to no responsive action by the Government.

Brexit constitutes a ‘critical juncture’ in the UK¹. Decisions made and actions taken throughout the Brexit process “will establish political structures that will have a long lasting impact on gender equality policies and politics”². Discourses, policies and processes currently being undertaken by political figures and institutions will determine the post-Brexit structural landscape of British politics, law, and society. The issue of ‘Brexit’ functions as a filter for contemporary political, social and economic issues, assigning value and contextual meaning to narratives and policies on immigration, trade, employment, public services, the economy and democracy. This filtering process also serves to exclude issues which do not conform to mainstream notions of what ‘Brexit’ means for the UK, taking oxygen from discussions on social and structural problems and inequalities, including the issue of women’s interests and gender equality.

At present, the gender-blind approach of the Government towards Brexit and the exclusion of women’s voices and interests in media and political debates and discussions of Brexit is contributing towards the increasing disadvantage of women within this process. Similarly to Government austerity policies in response to the 2008 financial crisis, the persistently gender-blind approach towards the Brexit crisis will result in the systematic disadvantage of women’s rights and interests. This threat is largely the result of the lack of visibility concerning women’s labour, the expectation that they will shoulder the burden for families and the most vulnerable, and the silencing of their voices and interests. The depth and breadth of these issues, as evidenced in this report, and the absence of media and political attention towards them is jarring. Based on the findings of this report, it is unsurprising that experts have argued that “Brexit poses the greatest modern day threat to women’s rights and gender equality policies in the UK”³.

If we are to improve, or even maintain, the current levels of equality, protections and prosperity that EU membership directly or indirectly grants women in the UK, we must take decisive, proactive steps to address the very real threats to the future of women and gender equality in the UK. A multitude of voices from academia, NGO and charity sectors, politics and governance have raised these issues and suggested necessary actions needed to address them. These include key reports by the House of Commons Women and Equalities Committee (Women’s Committee)⁴, the Equality and Human Rights Commission (EHRC)⁵,

¹ Guerrina, R. Murphy, H. 2016. ‘Strategic Silences in the Brexit Debate: Gender, Marginality and Governance’. *Journal of Contemporary European Research*. 12:2. See also: Hozic, A. and True, J. 2017. ‘Brexit as Scandal: Gender and Global Trumpism’. *Review of International Political Economy*. 24:2.

² <https://www.equallyours.org.uk/edf-gendering-brexit-blog-series-dont-worry-womens-rights-and-equality-are-already-embedded-within-our-legal-framework/#more-50448> See also: Hozic and True, ‘Brexit as Scandal’

³ Statement made by Professor Roberta Guerrina, Head of Politics at the University of Surrey and leading expert on gender and Brexit. Available at: <https://www.surrey.ac.uk/mediacentre/press/2018/brexit-one-greatest-threats-women%E2%80%99s-rights>

⁴ House of Commons Women and Equalities Committee. February 2017. *Ensuring Strong Equalities Legislation after the EU Exit*. Available at: <https://publications.parliament.uk/pa/cm201617/cmselect/cmwomeq/799/799.pdf>. See also: House of Commons Women and Equalities Committee. September 2016. *Impact of Brexit on the Equalities Agenda Inquiry*. Available at: <https://www.parliament.uk/business/committees/committees-a-z/commons-select/women-and-equalities-committee/inquiries/parliament-2015/impact-of-brexit-on-equalities-agenda-16-17/>

⁵ <https://www.equalityhumanrights.com/en/our-human-rights-work/what-does-brexit-mean-equality-and-human-rights-uk>;

the Women’s Budget Group (WBG)⁶, Gender 5+⁷, and the Fawcett Society⁸. *Yet these voices have gained little traction in mainstream media, political discourse, or governmental action.* This report therefore seeks to restate and reemphasise these voices, concerns, and recommendations as *absolutely fundamental* to the survival and future progress of women’s equality, prosperity and protection as Brexit unfolds itself. After 3 years of excluding, dismissing and rejecting the gendered impact of Brexit, this report seeks to place women’s voices and interest firmly on the Brexit map.

Executive Summary

Section 1 will assess the legal implications of Brexit for women’s rights and equality law. The loss of the protection floor, EU Charter of Fundamental Rights, ECJ and EU case law means that current rights and equality standards will be vulnerable to amendment, repeal and revocation post-Brexit. The risk to current and future employment rights and standards particularly benefiting women which have been subject to UK resistance and recent calls to ‘scrap’ will be assessed in terms of post-Brexit risk-factor. These include rights and protections for pregnant workers and majority-female atypical workers, new and enhanced rights and entitlements for parental and carers leave, and gender quotas on company executive boards. This report finds that the Government has failed to take the necessary action to protect these rights and standards, actively refused to engage with concerns and recommendations by the EHRC and Women’s Committee, and demonstrated a wilful disregard of the significant legal threat posed to women’s rights and gender equality by Brexit.

Section 2 will explore the socio-economic impact of Brexit on women, looking at the ways in which women will be specifically and/or disproportionately affected. The expected continuation of discriminatory austerity measures, where women have shouldered the burden of 86% of the past decade of austerity cuts and act as the primary ‘shock absorbers’ of family poverty, will likely have the most devastating and disproportionate impact on women. Gender-blind trade policies and agreements, as well as the predicted widening of the gender pay and pension gap will also contribute towards women’s economic disadvantage. This section will explore the specific ways in which women will be affected as: (1) workers – as a majority of workers in the public sector and precarious employment hit by public spending cuts, employment and wage pressures and eroding worker’s rights; (2) consumers – as a majority of household consumers and budgeters hit by rising prices and falling consumer standards; (3) public services users – as a majority of first and second-hand users (due to carer responsibilities) hit by public spending cuts and EU staff shortages; (4) carers – as a majority of paid and unpaid carers hit by falling public services and healthcare, EU staff shortages and increased time and work pressures. Women are likely to bear the economic brunt of Brexit, often in ways overlooked by mainstream Brexit debates and policies. The immediate and long-term economic effects of Brexit are expected to disproportionately disadvantage women in terms of their economic prosperity and independence, work-life balance and time poverty, employment pressures and opportunities, as well as broader implications for economic and social gender equality.

https://www.equalityhumanrights.com/sites/default/files/european_union_withdrawal_bill_house_of_lords_third_reading_16_may_2018.pdf. See also: chapter on ‘Implications of leaving the European Union at <https://www.equalityhumanrights.com/sites/default/files/pressing-for-progress-womens-rights-and-gender-equality-in-2018-pdf.pdf>

⁶ A joint report with the Fawcett Society: <https://wbg.org.uk/wp-content/uploads/2018/03/Economic-Impact-of-Brexit-on-women-briefing-FINAL-1.pdf>

⁷ https://docs.wixstatic.com/ugd/530efa_daf3572829014d2c81997f735f79a0b3.pdf

⁸ Reports by the Fawcett Society available here: <https://www.fawcettsociety.org.uk/Pages/Category/brexit-bill>

Section 3 will address the systematic exclusion of women's voices and interests within the Brexit campaign and process, from TV appearances to the negotiating table. Women have been chronically under-represented in media coverage, parliamentary debates, campaign work, and key Brexit decision-making positions such as Brexit ministers (0%) and negotiators (11-25%). As well as women's voices, the subject of women and Brexit has also been marginalized, with no formal debate given in parliament, just 2-6% of referendum campaign material addressing equality issues, not one mention in parliament by the former or current Prime Ministers Theresa May and Boris Johnson, and little media engagement. This section seeks to illuminate the severe trend of exclusion, dismissal and silencing women's voices and interests and the dominance of male voices and interests, clouded by the myth of a 'gender-neutral' Brexit, within the ongoing campaign and process. It will discuss the prevalence of male figures in TV and press coverage, influential pro-Brexit political groups and discourse-producing campaign boards, parliamentary speaking time on Brexit issues, ministerial and negotiating positions on Brexit, as well as the gender gap in voting patterns and outcome preferences, masculinized language of the campaign, and the silencing tactics used against female politicians and journalists.

Section 4 will analyse the potential impact of Brexit on women's organizations and vulnerable groups. This section will first look into the potential effects on women's rights and gender equality groups and organizations in terms of their political influence, advocacy work, networking abilities and lobbying power. The loss or diminishing of these capacities may slow progress on gender equality by inhibiting the work of individuals and groups pushing for change. These groups are also likely to be affected by expected defunding post-Brexit as UK replacement funding is uncertain and details on the amount, priorities, and allocation remain undetermined. This section will also explore the intersectional character of Brexit's impact on women, with certain groups of women being more affected than others. The specific implications for migrant, BAME, Muslim, disabled, and LGBTIQI+ women, as well as for victims of violence against women, will be included in this section. In particular, female EU nationals face a multitude of challenges and threats as a result of the 'settled status' system which 'systematically disadvantages women'.

A Note on Brexit Uncertainty: Deal or No Deal

The prevailing state of British politics, economics and society over the past three years following the 2016 Referendum continues to be one of deep-seated uncertainty. One of the primary challenges in assessing the expected or likely impact of Brexit is the prolonged uncertainty of whether the United Kingdom will leave the European Union with or without a deal.

Deal?

The only deal currently on the table is that agreed upon between the European Union and the UK Government under Theresa May which is set out within the Withdrawal Agreement. The current Government has asserted that its primary focus in negotiating a 'new deal' with the EU is the replacement of the Irish Backstop with 'alternative arrangements'. There has been little indication that the Withdrawal Agreement would otherwise be substantively changed. Despite the fact that this agreement has been voted down three times by UK Parliament, the EU has repeatedly asserted that there will be no renegotiation of the substantive content of the agreement unless the Government significantly changes its position (i.e. to renegotiate on the basis of remaining within

the Single Market) – which it has not – indicating that if the UK leaves with a deal, it will most likely be in line with the terms arranged under the current Withdrawal Agreement.

Therefore, whilst this report largely focuses on the Withdrawal Agreement arranged by the previous Government under Prime Minister Theresa May, it is unlikely that a ‘new deal’ arranged under current Prime Minister Boris Johnson will produce any significant differences outside of the Irish border situation.

Or No Deal?

However, the likelihood that the UK will leave the EU without a deal (i.e. a ‘no-deal Brexit’) has significantly increased following the appointment of Boris Johnson as Prime Minister. The rhetorical and practical actions of the Prime Minister since his appointment appear to favour a no-deal Brexit, despite claims that the Government is seeking an alternative arrangement with the EU which would produce a different withdrawal agreement than that currently arranged.

The European Commission indicated publicly that the UK had not presented any new concrete proposals, despite the UK Prime Minister claiming to be making ‘progress’ on alternative arrangements⁹. Senior UK political figures have made similar claims, with former chancellor Philip Hammond stating that “there are no substantive negotiations going on”¹⁰ and former Work and Pensions Secretary Amber Rudd asserting there was no evidence that Boris Johnson has been trying to get a deal with the EU¹¹.

Whilst other arrangements, such as a deal which keeps the UK within the Single Market and Customs Union, are possible, considering the current time scope through which these would have to be arranged and the lack of Government plans to consider or pursue these, the most likely outcome is either a no-deal Brexit or a deal which is similar to the current Withdrawal Agreement.

The situation for women and gender equality in the UK will be significantly worse under a no-deal Brexit. This report primarily focuses on the expected impact of Brexit on women and gender equality in the UK under the terms of the Withdrawal Agreement as the base-level of expected risk. The additional and heightened negative risks and expected outcomes of a no-deal Brexit are highlighted throughout the report, although these are non-exhaustive.

⁹ <https://www.independent.co.uk/news/uk/politics/brexit-eu-boris-johnson-deal-negotiations-dominic-cummings-latest-a9089586.html>

¹⁰ <https://www.independent.co.uk/news/uk/politics/philip-hammond-boris-johnson-brexit-no-deal-vote-deselection-cummings-a9089641.html>

¹¹ <https://www.theguardian.com/politics/live/2019/sep/08/brexit-boris-johnson-amber-rudd-resignation-live-news?page=with:block-5d74b2218f083106f45577c2#block-5d74b2218f083106f45577c2>

Report Objectives:

-) To challenge mainstream assumptions that Brexit is gender-neutral
-) To increase public, media and political attention to areas where women are *specifically* or *disproportionately* disadvantaged due to Brexit
-) To illustrate the negative impact Brexit is likely to have on women in the UK in terms of equality, rights, prosperity, representation and opportunities.
-) To highlight the under-representation of women's voices and interests, and of gendered perspectives and equality concerns within the Brexit campaign and process
-) To encourage the Government and other stakeholders to take the steps necessary to maintain current levels of gender equality and to prioritise progress in this area through a proactive approach on Brexit.
-) To promote the research and policy recommendations by key women's and equalities organizations.

1. Women's Rights and Equality Law Post-Brexit

This section will assess the impact of Brexit on women's rights and equality law in the UK by highlighting the removal of key safeguards (such as the protection floor, EU Charter of Fundamental Rights, and ECJ jurisdiction), the potential erosion of equality law in areas with high UK resistant at the domestic and EU level, the likelihood of British women missing out on future progress on rights and equality law, and the UK Government's evasive and resistant response to concerns and proposals raised regarding the loss of these rights and protections.

The legislative impact of Brexit on women's rights and equality law has been raised by various experts and groups, including the Equalities and Human Rights Commission¹², the House of Commons Women and Equalities Committee¹³, the Fawcett Society¹⁴, the TUC¹⁵, and various legal experts¹⁶. The primary concern of these groups is that key rights and protections may be rolled back post-Brexit, including those which specifically protect women.

Whilst experts, activists and various political figures differ on whether Brexit will result in an immediate 'bonfire of rights and protections', there is general consensus among them that these rights will be significantly vulnerable to erosion by economic and deregulatory pressures post-Brexit, primarily at the hands of future Governments¹⁷. The loss of the protection floor for women's rights and equality, in

¹² <https://www.equalityhumanrights.com/en/our-human-rights-work/what-does-brexit-mean-equality-and-human-rights-uk>;

https://www.equalityhumanrights.com/sites/default/files/european_union_withdrawal_bill_house_of_lords_third_reading_16_may_2018.pdf. See also: chapter on 'Implications of leaving the European Union at <https://www.equalityhumanrights.com/sites/default/files/pressing-for-progress-womens-rights-and-gender-equality-in-2018-pdf.pdf>

¹³ <https://publications.parliament.uk/pa/cm201617/cmselect/cmwomeq/799/799.pdf>

¹⁴ <https://www.fawcettsociety.org.uk/Pages/Category/brexit-bill>

¹⁵ https://www.tuc.org.uk/sites/default/files/Women_workers_and_the_EU.pdf;

<https://www.tuc.org.uk/sites/default/files/WomenandEU.pdf>

¹⁶ See, for example: Testimony given to the House of Commons Women and Equalities Committee by *Professor Catherine Barnard*, European Law expert at the University of Cambridge, and *Professor Aileen McColgan*, Human Rights expert at King's College London. September 2016. Available at:

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/women-and-equalities-committee/impact-of-brexit-on-the-equalities-agenda/oral/38384.html>; legal counsel by Jason Coppel QC, commissioned by the EHRC. Available at: <https://www.equalityhumanrights.com/sites/default/files/eu-withdrawal-bill-legal-advice-jason-coppel-qc.pdf>; legal counsel by Michael Ford QC, commission by the TUC (<https://www.tuc.org.uk/sites/default/files/Workers%E2%80%99rights%20from%20Europe%20the%20impact%20of%20Brexit%20-%20Michael%20Ford%20QC.pdf>); legal opinion from EU law expert Aidan O'Neill QC (https://www.google.be/url?sa=t&rct=j&q=&esrc=s&source=web&cd=4&ved=2ahUKEwja_Z-z25_iAhUMC-wKHSwpC9gQFjADegQIARAC&url=https%3A%2F%2Fwww.tssa.org.uk%2Fdownload.cfm%3Fdocid%3D5BF516BF-382D-44B1-9B7A05896F86F776&usg=AOvVaw3F3IacD8bvXRO7yQREsix).

¹⁷ Figures and groups suggesting that Brexit will produce a 'bonfire of rights': Labour Leader *Jeremy Corbyn* (see: <https://www.theguardian.com/politics/2016/apr/14/jeremy-corbyn-leaving-eu-would-lead-to-bonfire-of-rights>); EU Law Barrister *Aidan O'Neill QC*, in a legal opinion on Brexit for the TSSA and IWGB unions (see previous footnote); Labour MP *Chi Onwurah* (see: <https://www.theguardian.com/commentisfree/2019/may/07/brexit-right-labour-vote-tory-workers-rights-environment>); anti-Brexit campaign group *Best for Britain* (see: <https://www.bestforbritain.org/love-labour>). Figures and groups who believe that a 'bonfire of rights' is unlikely (but with most warning of a more gradual erosion of rights post-Brexit): *Professors Moira Dustin, Nuno Ferreira and Susan Millns* (see: https://www.google.be/url?sa=t&rct=j&q=&esrc=s&source=web&cd=8&ved=2ahUKEwi02Zj7J_iAhUQ_aQKHetyArYQFjAHegQIBRAC&url=https%3A%2F%2Fosf.io%2Fpreprints%2Fsocarxiv%2F4tf3g%2Fdownload&usg=AOvVaw0bvH4BUgdgG86l63-7g1Ly); *KPMG* report (see:

combination with the loss of the EU Charter of Fundamental Rights, ECJ jurisdiction and the indeterminate role of EU case law means that vital safeguards will no longer apply. The progress and even maintenance of these rights are entirely dependent upon the Government in power, and there is a significant risk that the UK will fall behind EU standards in several areas. Such areas include those that the UK has been particularly resistant towards, both domestically and within the EU, such as gender quotas for company executive boards and pregnant worker's rights and protections.

There is also a concern that the lack of female Brexit ministers and negotiators¹⁸, as well as the regressive views of some of their male counterparts, has meant that consideration and protection of these rights has not been included in the Brexit process. The fact that several key Government Ministers, including key Brexit figures, have expressed intentions to scrap various EU rights and protections which are key for women is also worrying¹⁹. Rather than taking the necessary steps proposed by key women's and equalities bodies and organizations, the Government has "relegat[ed] equality and socio-economic rights to second order issues"²⁰.

Note: this information is largely based on the UK Government under Prime Minister Theresa May since legislative and policy procedures relating to Brexit almost entirely took place during this period. This report found no indication that the current Government under Boris Johnson intended to rectify or improve this approach to women's rights and equality law post-Brexit. In fact, the regressive views of the Prime Minister towards women, the current make-up of the Cabinet and 'Brexit war-cabinet', and the stated priorities on Brexit indicate a possible further de-prioritisation of women's rights and equality law in the Government's pursuit of Brexit.

<https://assets.kpmg/content/dam/kpmg/xx/pdf/2018/09/the-future-shape-of-uk-fs-regulation.pdf>); Professor Steven Peers, University of Essex (see: <http://eulawanalysis.blogspot.com/2017/12/workers-rights-brexit-bonfire-begins.html>); CBI study of 23 industry sectors (see: <https://www.bbc.com/news/business-43719924>); and Farrer & Co. (see: <https://www.farrer.co.uk/news-and-insights/blogs/brexit--a-bonfire-of-workers-rights/>). It should also be noted that there have been multiple calls for a 'bonfire' of worker's rights and protections (often under the rhetoric of cutting 'red-tape') by key Brexit proponents, such as IEA head Mark Littlewood (see: <https://www.thetimes.co.uk/article/a-post-brexit-bonfire-of-red-tape-will-help-reignite-economic-growth-w6sv2dp5t>), including many Government figures (for example: Dominic Raab; Michael Gove; Boris Johnson; Andrea Leadsom; Liam Fox) who are in key positions to influence the maintenance or erosion of worker's rights post-Brexit.

¹⁸ Women represent just 11% of ministers of departments responsible for Brexit; 11% of UK Brexit negotiators in 2017; 25% of negotiators in 2018: and 0% of Brexit ministers (2019), see section 3b of this report for more information.

¹⁹ For example, Brexit Minister and negotiator Lord Callanan (see: <https://www.independent.co.uk/news/uk/politics/martin-callanan-new-brexit-minister-eu-workers-agency-employees-pregnant-women-safeguards-a8027321.html>), Brexit minister advisor Nick de Bois (see: <https://www.businessinsider.com/brexit-secretary-chief-of-staff-nick-de-bois-employment-rights-regulations-2018-7?r=US&IR=T>), former Brexit minister and negotiator Dominic Raab (see: <https://www.independent.co.uk/news/uk/politics/dominic-raab-brexit-eu-workers-rights-uk-talks-brexit-secretary-a8438706.html>)

²⁰ <https://www.equallyours.org.uk/edf-gendering-brexit-blog-series-dont-worry-womens-rights-and-equality-are-already-embedded-within-our-legal-framework/>

Summary Points of Section 1

- J Brexit will result in the removal of the protection floor for equality law, as well as the loss of systemic pressure and impetus provided by EU equality legislation and case law on gender equality and women's rights in the UK.
- J Post-Brexit, it will be possible for future Governments to amend, replace and revoke key rights, protections and standards within UK equality law, as these will no longer be guaranteed by EU law, nor are they constitutionally protected under UK law.
- J Whilst the government has taken two positive steps – (1) parliament passed an amendment requiring a ministerial statement when using Henry VIII powers to 'amend, repeal or revoke' equality law, and (2) introduced a sifting committee to assess whether Government use of these powers to change equality law should be passed through parliament – however, these do not prevent ministers from over-riding safeguards or from exercising Henry VIII powers to amend, repeal or revoke equality law post-Brexit.
- J The Government has consistently rejected key proposals and amendments to the Withdrawal Act 2018 designed to maintain current rights and protections post-Brexit, including: retention of the EU Charter of Fundamental Rights; inclusion of equality as a protected right; protection of the 2006 and 2010 Equality Acts; a non-regression clause on EU equality law; and an amendment to the 2010 Equality Act enabling parliament and UK courts to determine whether legislation is compatible with UK equality principles.
- J The EHRC and House of Common's Women and Equalities Committee have criticised the Government's failure to engage with key amendments and proposals, to include women and gender equality within the Withdrawal Act and Agreement, and an overall failure to sufficiently protect equality law post-Brexit.
- J The Withdrawal Act 2018 does not mention women or gender equality once in 107 pages, and the Withdrawal Agreement 2018 includes 4 mentions of women in 585 pages (included in the annex, not the main text). The HoC Women's Committee found that "women are still missing from the Government's agenda on Brexit".
- J The Government refused to sufficiently protect the 2010 Equality Act post-Brexit (equal rights are not constitutionally protected and are vulnerable to erosion by future Governments).
- J The Government has been "unacceptably reluctant" towards discussing how human rights standards will be protected post-Brexit, which are at risk through non-EU trade agreement pressures, the loss of the EU Charter of Fundamental Rights and other EU equality laws and protections, and Government calls to revoke the 1998 Human Rights Act.
- J The Government failed to carry out gender impact assessments on equality law post-Brexit, despite strong calls to do so. The Government's 14 page 'equality analysis' does not sufficiently address gender equality and fails to account for the range and depth of implications Brexit has for women's rights and equality law.
- J Strong UK resistance during negotiation and implementation of EU equality legislation (such as on pregnant workers rights and women on boards), recent Conservative voting patterns and the expressed intentions of Brexit and Government figures suggest potential regression or reduced progress on gender equality post-Brexit.

- J The UK will lose the EU Charter of Fundamental Rights. The Charter's equality chapter protects women's rights in employment, work and pay, and includes key rights not equally covered in UK law, such as the right to dignity, non-discrimination on the basis of sex, fair and just working conditions and children's rights (the loss of which will particularly affect women).
- J Independent legal advice commissioned by the EHRC found that the loss of the Charter will mean: less power to protect rights; less flexibility to create new rights and reflect change; a lower level of protection for fundamental rights; creating gaps in basic human rights; losing the Charter principles; and legal uncertainty and confusion on equality law and rights post-Brexit.
- J The loss of ECJ jurisdiction and EU case law will reduce the level of legal protections for women and the level of resources for equality law standards in the UK. The ECJ and EU case law have played a progressive role in ensuring gender equality in the UK, the loss of which will result in increased legal uncertainty for equality law and the loss of EU legal pressures and impetus towards improving equality standards.

- J Pregnant worker's rights and protections at work will no longer be secure post-Brexit. The UK has opposed laws and rulings protecting these rights within the EU and domestically, there is ongoing opposition to these rights from key Brexit figures, and the PM has refused to rule out scrapping the Pregnant Worker's Directive.
- J As a result of the Directive, UK women were entitled to paid time off for antenatal appointments, workplace protections for pregnant & breastfeeding mothers, protection from dismissal, replacement or maternity-based discrimination, and additional protection of maternity rights, including leave and pay entitlements.
- J The UK has been particularly resistant to the EU Working Time Directive during its negotiation and implementation within the EU, and attempted to have it annulled prior to its passing. There is strong ongoing opposition to the EU Working Time Directive within the UK, which is at risk of deregulatory erosion post-Brexit. The Directive directly benefits women workers and encourages gender balancing of paid and unpaid labour.
- J The Agency Workers Directive is also under threat from deregulatory pressures and opposition from Government and Brexit figures. As a growing majority of agency workers, women will be particularly affected by the erosion of rights protected by the Directive, including equal maternity rights.
- J The Part-Time Workers Directive and ECJ case law protects the equal rights and treatment of part-time workers in the UK, nearly three quarters of whom are women. Legal counsel for the TUC has highlighted these laws as 'vulnerable to repeal or radical adjustment' post-Brexit, citing previous and ongoing UK resistance towards them and increasing deregulatory pressures to scrap or amend these rights and standards.

- J Women will miss out on new rights and protections provided by recent and upcoming EU laws, including paid parental and carers leave, 40% gender quotas on boards, greater accessibility for disabled people, and stronger protections against gender discrimination.
- J The UK is unlikely to fully implement the Work-Life Balance Directive, which it lobbied against and stalled during negotiations, as it has made no commitment towards its implementation. If implemented, UK citizens would be entitled to paid parental and carers leave, reducing the childcare burden on women and encouraging gender equality within households.

J The UK may also fall behind the EU after Brexit on gender balance in company board membership. The UK has shown significant resistance to the upcoming Women on Boards Directive within the negotiation and opposes the use of gender quotas on company boards.

The Protection Floor

EU Equality law currently provides a *protection floor* for rights, protections and entitlements that secure equality standards in the UK. EU equality law does not prohibit Member States from going further than the minimum rights and standards it sets, as the UK does in many areas, but it does protect citizens from future Governments which may seek to diminish or repeal these rights and standards²¹. The UK's departure from the EU will result in the removal of this protection floor, as well as the loss of systemic pressure and impetus provided by EU equality legislation and case law on gender equality and women's rights in the UK²².

Expert testimony given to the Women's Committee by Professor Barnard suggests that, as recent Governments have been most active in areas of employment law not covered by EU legislation, we may see similar activity by future Governments in terms of undermining rights and standards in areas no longer protected by EU law post-Brexit²³. Further testimony given by Professor McColgan to the Women's Committee argued that the loss of key EU equalities Directives "means that there would be no underpinning and maintenance, or demand for maintenance, of the current provisions", adding that "As an equality lawyer I would say it is very troubling, because the whole thing could be knocked away"²⁴. Analysis from the Thomas Paine Institute also found that:

in each area where domestic law sits on an EU legacy, the loss of the 'floor' created by the EU underpinning, accompanied by the rights in the General Principles and the Charter will be most felt in the absence of the enhanced remedies associated with the European Communities Act 1972 and the removal of the influence of the Court of Justice of the European Union²⁵

²¹ Testimony given to the House of Commons Women and Equalities Committee by Professor Catherine Barnard, European Law expert at the University of Cambridge, during its inquiry into the *Impact of Brexit on the Equality Agenda*. September 2016. Available at:

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/women-and-equalities-committee/impact-of-brexit-on-the-equalities-agenda/oral/38384.html>

²² This applies in most Brexit scenarios, although the protection floor may be maintained if the UK remains a member of the Single Market.

²³ Testimony by Professor Barnard to the Women's Committee Inquiry into Equality Law post-Brexit. Available at: <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/women-and-equalities-committee/impact-of-brexit-on-the-equalities-agenda/oral/38384.html>; Stammering Law report on *Brexit and Equality Act 2010*. April 2019. Available at: <http://www.stammeringlaw.org.uk/proposed/brexit.htm#ability>

²⁴ Testimony given the House of Commons Women and Equalities Committee by Professor Aileen McColgan, Human Rights expert at King's College London, during its inquiry into the *Impact of Brexit on the Equality Agenda*. September 2016. Available at:

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/women-and-equalities-committee/impact-of-brexit-on-the-equalities-agenda/oral/38384.html>

²⁵ Thomas Paine Initiative report by Angela Patrick on *Mapping the Great Repeal: European Union Law and the Protection of Human Rights* at Global Dialogue. October 2016. See page 33. Available at:

<https://rightsinfo.org/app/uploads/2016/12/Mapping-the-Great-Repeal-Thomas-Paine-Initiative-November-2016-For-RightsInfo.pdf>

In order to maintain the current level of protection for key rights and standards, particularly in the area of women's rights and equality standards, the Government must take a proactive approach towards securing these rights before the UK formally departs the EU²⁶. If equality law is not granted additional protection post-Brexit, so that these current standards are at least maintained, there is a significant risk that standards may regress, depending on the priorities of the Government in power.

It should be noted that the extent to which the protection floor will be lost depends on whether the UK leaves on similar terms to the Withdrawal Agreement or under a no-deal Brexit. Under the former, four EU Directives relating to women's rights would be protected (see section X), meaning that the UK would not be able to regress below the minimum standards protected by these Directives, although other EU equality law would remain unprotected (see section X). Under the latter, all EU equality law, including the four EU directives protected under the Withdrawal Agreement, would be exposed to potential erosion and revocation post-Brexit.

a. Evaluating the Government's approach

This section will analyse the extent to which the Government (primarily focusing on the May Government) has sufficiently protected Women's Rights and Equality Law from the legislative impact of Brexit. Such protection would entail legally binding guarantees that equality rights and standards would not be rolled back; constitutional protection of the 2010 Equality Act; the retainment of, or protection of rights within, the EU Charter of Fundamental Rights, EU equality Directives, ECJ rulings and EU case law; particular legal protections for rights and standards to which UK Governments have been previously and/or currently resistant towards; and safeguarding human rights and women's rights within post-Brexit trade agreements. Unfortunately, despite multiple proposals and recommendations for such actions as necessary to maintain current equality standards, the Government has either ignored or rejected all of these proposed actions²⁷. The Government's dismissive stance on women's rights and equality law post-Brexit has been deeply criticised by key organizations, including the EHRC, the House of Commons Women's Committee, and the Fawcett Society, among others. This report finds that the Government has failed (and often actively refused) to take the necessary steps to secure women's rights and equality law standards post-Brexit, and that urgent attention and action in this area is needed to prevent a significant rolling back of women's rights and equality standards as a result of Brexit.

Two Steps Taken by the Government

It should be noted that the Government has taken two positive steps in order to improve the level of scrutiny regarding the retention or revocation of EU equality laws, including key rights and protections, following Brexit:

1. (Amendment 391) Parliament passed an amendment to the Withdrawal Act which requires a Minister to make a statement when using specific statutory instruments (Henry VIII powers) to "amend, repeal or revoke any provision of equalities legislation"²⁸

²⁶ <https://publications.parliament.uk/pa/cm201617/cmselect/cmwomeq/799/799.pdf>

²⁷ <https://publications.parliament.uk/pa/cm201719/cmselect/cmwomeq/385/38502.htm>

²⁸ Schedule 7, Part 3, Paragraph 28-29. The European Union (Withdrawal) Act 2019. (Previously the Great Repeal Bill). June 2018. Available at: http://www.legislation.gov.uk/ukpga/2018/16/pdfs/ukpga_20180016_en.pdf; See also: http://data.parliament.uk/DepositedPapers/Files/DEP2017-0788/Justine_Greening_to_Maria_Miller_equalities.pdf

2. The Government has introduced a sifting committee (the European Statutory Instruments Committee) to examine Government proposals for a “negative procedure” statutory instrument, and to recommend whether to upgrade it to an “affirmative procedure”, which requires the proposed legislation to be voted through in both Houses²⁹.

Whilst these provisions have been welcomed by women’s and equalities bodies and groups, they have also received criticism largely due to their inability to actually prevent the regression of equal rights and standards. The EHRC has “expressed concerns that [AM391] ... does not fulfil the Government’s commitment to maintain current equality protections because it does not require a statement that current levels of protection will be maintained”³⁰. This follows the Government’s rejection of amendment 83E which would have required “a ministerial statement to confirm that any secondary legislation made under the Bill does not reduce protections under equality legislation”, which the EHRC supported over AM391. The EHRC noted that the Government’s reason for rejecting AM83E (that the word “protection” lacks statutory basis) was unfounded and incorrect³¹. The Government also rejected an amendment which would have limited the use of these statutory instruments which would allow them to be used to amend retained EU law only when “necessary” rather than just if a minister viewed it as “appropriate”³².

Furthermore, the recommendations of the sifting committee are not binding, meaning that the Government will still be able to push through proposals without a vote in both Houses against the recommendations of the Committee. Whilst an amendment was passed which would require ministers to make a written statement if they opposed the Committee’s recommendation for scrutiny procedure³³, this still does not prevent the Committee from being overruled, including on proposals which would undermine or revoke equal rights and protections for women.

Note: These Government measures to somewhat protect equality standards in the UK post-Brexit shall apply in the case of a no-deal Brexit as these provisions are now included in UK law through the Withdrawal Act 2018 and in Government policy (with no current indication of significant change). However, the extent to which these are upheld will depend on the Government’s intent, as there is room for manoeuvre for ministers to push through regressive policy changes regardless of these procedures.

²⁹ Schedule 7, Part 1, Paragraph 3. http://www.legislation.gov.uk/ukpga/2018/16/pdfs/ukpga_20180016_en.pdf; Commons Select Committee, 09 July 2018, MPs set out how Commons committee should scrutinise Brexit legislation, <https://www.parliament.uk/business/committees/committees-a-z/commons-select/procedure-committee/news-parliament2017/exiting-eu-scrutiny-delegated-legislation-report-published-17-19/>

³⁰ Equality and Human Rights Commission Report. European Union (Withdrawal) Bill: House of Lords Third Reading. May 2018. Available at: https://www.equalityhumanrights.com/sites/default/files/european_union_withdrawal_bill_house_of_lords_third_reading_16_may_2018.pdf

³¹ Equality and Human Rights Commission Report. European Union (Withdrawal) Bill: House of Lords Third Reading. May 2018. Available at: https://www.equalityhumanrights.com/sites/default/files/european_union_withdrawal_bill_house_of_lords_third_reading_16_may_2018.pdf

³² Linked amendments 10, 43, and 45. <https://www.theguardian.com/politics/2018/jun/11/eu-withdrawal-bill-full-list-of-proposed-amendments>

³³ <https://www.instituteforgovernment.org.uk/explainers/eu-withdrawal-bill-amendments-and-debates>

The Government's Reaction to Equality Law and Women's Rights Concerns and Proposals

An inquiry into the impact of Brexit on Equality Law in the UK by the House of Commons Women and Equalities Committee (Women's Committee) found that securing equality post-Brexit required a proactive Government response³⁴, with Committee Chair Maria Miller MP arguing that in order to “maintain the current level of equality protection ... [the Government] must take active steps to embed equality into UK law”³⁵. Regrettably, the Government has largely failed to take the necessary steps to protect women's rights and gender equality standards, against the strong advice of expert bodies and groups.

The Government has excluded or rejected several amendments to the Withdrawal Act which would have improved the level of protection for women's rights and equality law, so that current standards would at least be maintained post-Brexit. These included key recommendations from women's and equalities bodies responsible for advising the Government on matters of equality law within the Brexit process.

The EHRC supported several amendments to the Withdrawal Act designed to protect equal rights and protections post-Brexit. These include amendments which would:

1. “retain the EU Charter of Fundamental Rights and the right to bring a claim based on a breach of general principles of EU law”
2. “ensure our courts can properly consider future judgments of the Court of Justice of the European Union (CJEU) where it is relevant to any matter before the court”
3. Introduce “a new right to equality to apply across the UK” which would “set a standard that all individuals are equal before the law; and that all individuals have a right not to be discriminated against by a public authority”³⁶
4. “ensure that existing rights under the Equality Acts 2006 and 2010 will not be removed or diminished” via two mechanisms mirroring those in the 1998 Human Rights Act³⁷ (AM30A at Report)
5. “introduce enhanced scrutiny over the use of delegated powers to amend equality rights” (AM83E)³⁸

³⁴ House of Commons Women and Equalities Committee Report on *Ensuring Strong Equalities Legislation after the EU Exit: Seventh Report of Session 2016-2017*. February 2017. Available at:

<https://publications.parliament.uk/pa/cm201617/cmselect/cmwomeq/799/799.pdf>

³⁵ Statement by the Chair of the House of Commons Women and Equalities Committee Maria Miller MP regarding the report. February 2017. Available at: <https://www.parliament.uk/business/committees/committees-a-z/commons-select/women-and-equalities-committee/news-parliament-2017/govt-response-equality-rights-17-19/>

³⁶ This amendment, tabled by Lord Wallace of Tankerness, was opposed by Brexit Minister Lord Callanan and was subsequently not put to a vote. See: House of Lords debate 23rd April 2018, volume 790. Available at:

[https://hansard.parliament.uk/Lords/2018-04-23/debates/5481ABDF-ABEB-49C7-9404-6B4B85E24400/EuropeanUnion\(Withdrawal\)Bill](https://hansard.parliament.uk/Lords/2018-04-23/debates/5481ABDF-ABEB-49C7-9404-6B4B85E24400/EuropeanUnion(Withdrawal)Bill)

³⁷ This amendment, tabled by Lord of Tankerness following the opposition to the previous amendment, was also rejected by Brexit Minister Lord Callanan. The EHRC stated that the minister's response was “disappointing”. See: https://www.equalityhumanrights.com/sites/default/files/european_union_withdrawal_bill_house_of_lords_third_reading_16_may_2018.pdf

³⁸ Equality and Human Rights Commission Report. European Union (Withdrawal) Bill: House of Lords Third Reading. May 2018. Available at:

https://www.equalityhumanrights.com/sites/default/files/european_union_withdrawal_bill_house_of_lords_third_reading_16_may_2018.pdf

Unfortunately, all but one³⁹ of these amendments were rejected (some of which were rejected before being put to vote), despite the Commission stating that “it is critical that these important amendments are upheld”. Whilst another amendment (AM391) somewhat included the “enhanced scrutiny over the use of delegated powers to amend equality rights” (proposed in AM 83E and AM30A), the EHRC argued that these “do not go far enough to prevent non-regression”. In response to the Government’s rejection of amendment 30A, the EHRC stated that it was “disappointed that the Government has not meaningfully engaged with the response or intent behind these amendments” and that it “remains concerned about the loss of underpinning of our equality laws”⁴⁰.

The House of Commons Women and Equalities Committee report on ‘Ensuring Strong Legislation after EU Exit’ (February 2017) made several key recommendations to the government in order to protect women’s rights and gender equality after Brexit. The primary proposals of the report were:

1. The inclusion of a non-regression clause in the Great Repeal Bill (Withdrawal Act), which “explicitly commits to maintaining the current levels of equality protection when EU law is transposed into UK law”
2. The amendment of the 2010 Equality Act “to empower Parliament and the courts to declare whether legislation is compatible with UK principles of equality”⁴¹

The Government rejected both of these proposals, and largely ignored or rejected the concerns and recommendations within the Committee’s report. Following the Government’s response⁴², the Committee found that the “Government has not engaged with [the Committee’s] suggestions”⁴³, with Committee Chair Maria Miller further stating that:

*“it is disappointing that the Government is not taking opportunities to turn its policy intentions into legislative commitments. [...] In its report on equality and the EU exit, the Committee set out a number of clear, practical options for ensuring that maintenance of current levels of protection is explicit in law, but the Government has not engaged with these suggestions. Neither has the Government set out a clear rationale as to why the rights in the Equality Act 2010 cannot be given a similar level of protection to those in the Human Rights Act. Both Acts set out schemes of individual rights protection, and the Government response has not given compelling reasons for not incorporating the equality rights in EU withdrawal legislation.”*⁴⁴ (itals added)

Contrary to strong recommendations by the Women’s Committee and other groups, there is no mention of women or gender equality within the Great Repeal Bill (the ‘European Union (Withdrawal) Act 2018’)⁴⁵,

³⁹ The second amendment was included, under section 6, paragraph 2 of the Withdrawal Act, subject to some limitations outlined in paragraphs 3 and 6 of this section. See:

http://www.legislation.gov.uk/ukpga/2018/16/pdfs/ukpga_20180016_en.pdf

⁴⁰ https://www.equalityhumanrights.com/sites/default/files/european_union_withdrawal_bill_house_of_lords_third_reading_16_may_2018.pdf

⁴¹ Women’s Committee report on Ensuring Strong Equalities Legislation after the EU Exit. Page 3. February 2017. Available at: <https://publications.parliament.uk/pa/cm201617/cmselect/cmwomeq/799/79903.htm>. Committee Chair Maria Miller MP highlighted these as the “two concrete priorities which the Government should focus on. February 2017. Available at: <https://www.parliament.uk/business/committees/committees-a-z/commons-select/women-and-equalities-committee/news-parliament-2015/equalities-legislation-brexite-report-published-16-17/>

⁴² <https://publications.parliament.uk/pa/cm201719/cmselect/cmwomeq/385/38502.htm>

⁴³ Statement by the Chair of the House of Commons Women and Equalities Committee Maria Miller MP regarding the report. February 2017. Available at: <https://www.parliament.uk/business/committees/committees-a-z/commons-select/women-and-equalities-committee/news-parliament-2017/govt-response-equality-rights-17-19/>

⁴⁴ Ibid

⁴⁵ *The European Union (Withdrawal) Act 2019*. (Previously the Great Repeal Bill). June 2018. Available at: http://www.legislation.gov.uk/ukpga/2018/16/pdfs/ukpga_20180016_en.pdf

with ‘equality’ mentioned only through the inclusion of AM391 (in relation to the requirement of a ministerial statement when using specific statutory instruments to amend, repeal or revoke equalities legislation).

Moreover, the Withdrawal Agreement (which is yet to pass through parliament) makes some basic provisions (Article 4(1)) for EU laws on equality, with five EU Directives relating to gender equality included in the annex⁴⁶. It should be noted however, that women are not mentioned once in the main body of text of the Agreement, and are mentioned a total of 4 times in the full 585 pages of the Withdrawal Agreement (within the annex)⁴⁷. This is despite strong calls to embed gender equality protections and include women’s rights and interests within the Agreement text. The Fawcett Society, among others, has criticised the persistent exclusion of women from the Agreement text, stating that “following the publication of the Withdrawal Agreement, it is clear that women are still missing from the Government’s agenda on Brexit”⁴⁸.

Protecting the 2010 Equality Act

The 2010 Equality Act is a strong and comprehensive piece of UK legislation on gender equality and women’s rights. The Act consolidates, and in many areas derives from, EU fundamental rights and equality law. As the only European country without a written constitution, the 2010 Equality Act is not constitutionally protected⁴⁹. Following Brexit, the loss of the EU protection floor of rights and Charter means that the rights and protections enshrined in the Act will be exposed to potential change and erosion by future Governments. Legal expert on discrimination and human rights law, Schona Jolly, has stated that:

“Once Britain leaves the EU, there is no domestic equivalent of that EU statutory floor below which our rights are not permitted to fall. There is no codified constitution which provides such a right: The Equality Act 2010, whilst a strong and largely self-sufficient piece of legislation (although notably one which also consolidates EU law), does not have constitutional status”⁵⁰

The Women’s Committee (as well as the Fawcett Society⁵¹) strongly recommended that the 2010 Equality Act be given the same level of protection as the Human Rights Act in order to mitigate the loss of EU protection of these rights as a result of Brexit⁵². Unfortunately the Government rejected this proposal in its response to the Committee’s report⁵³. The Women’s Committee criticised the Government’s response, stating that it had failed to “set out a clear rationale” for its refusal to ensure the current level of legislative protection would not fall post-Brexit⁵⁴.

⁴⁶ *Draft Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, as agreed at negotiators’ level on 14 November 2018* (Withdrawal Agreement). November 2018. Pages 331-332 https://ec.europa.eu/commission/sites/beta-political/files/draft_withdrawal_agreement_0.pdf

⁴⁷ *ibid*

⁴⁸ Fawcett Society Report, November 2018

<https://www.fawcettsociety.org.uk/Handlers/Download.ashx?IDMF=294c23f5-95f4-4f00-a8ce-eb52e7606c6c>

⁴⁹ <https://ukandeu.ac.uk/from-solidarity-to-precarity-thinking-equality-post-brexit/>

⁵⁰ <https://www.prospectmagazine.co.uk/magazine/your-right-to-equality-is-currently-protected-after-brexit-it-wont-be>

⁵¹ page 4 <https://www.fawcettsociety.org.uk/Handlers/Download.ashx?IDMF=e473a103-28c1-4a6c-aa43-5099d34c0116>

⁵² Women’s Committee report on *Ensuring Strong Equalities Legislation after the EU Exit*. February 2017. Available at: <https://publications.parliament.uk/pa/cm201617/cmselect/cmwomeq/799/79903.htm>

⁵³ <https://publications.parliament.uk/pa/cm201719/cmselect/cmwomeq/385/38502.htm>

⁵⁴ Statement by the Chair of the House of Commons Women and Equalities Committee Maria Miller MP regarding the report. February 2017. Available at: <https://www.parliament.uk/business/committees/committees-a-z/commons-select/women-and-equalities-committee/news-parliament-2017/govt-response-equality-rights-17-19/>

Considering the level of resistance to the introduction of the 2010 Equality Act by the Conservative Party (as well as subsequent and ongoing resistance to the Act by the Conservative Government, particularly from then Home Secretary Theresa May⁵⁵), the Government's failure to assign necessary protections and refusal to sufficiently give reason for this should be a significant cause concern in this area.

Human Rights

The Equality and Human Rights Commission has raised concerns regarding the UK's intention to replace the 1998 Human Rights Act (HRA)⁵⁶, which incorporates the European Convention on Human Rights into UK law and applies to the whole of the UK⁵⁷, with a British Bill of Rights. The UK Government has stated that it will "consider the human rights legal framework"⁵⁸ following Brexit, and that the HRA prevents it from tackling terrorism⁵⁹.

In December 2016, the UK parliament's Joint Committee on Human Rights published a report on 'The human rights implications of Brexit'. Regarding the Government's engagement with the enquiry, the report noted that the Secretary of State's refusal to attend was "unacceptable", that the Government provided an "extremely limited response", that it "failed to provide [the committee] with any substantive written evidence" and that its inability to "set out any clear vision as to how it expects Brexit will impact the UK's human rights framework" was "regrettable"⁶⁰. The Joint Committee report also stated that:

"A second matter of immediate concern is the Government's approach to safeguarding individuals' fundamental rights, other than those protected under the ECHR, going forward. The Government seemed *unacceptably reluctant* to discuss this issue with the Committee. The Minister of State was *unwilling or unable* to tell us what the Government saw as the most significant human rights issues that would arise when the UK exits the EU."⁶¹

This absence of government engagement regarding human rights post-Brexit has been accompanied by anti-human rights rhetoric by key Brexit figures in government. Worryingly, former Brexit Minister and negotiator Dominic Raab has stated that "I don't support the Human Rights Act and I don't believe in economic and social rights"⁶².

Women are particularly vulnerable to human rights violations due to their socio-economic positions, the prevalence of female victims of identity-based discrimination and abuse, and the violation of women's rights as human rights. The UK currently has a very high standard of human rights, and must take proactive steps to address the risk Brexit poses towards upholding these high standards.

⁵⁵ See, for example: <https://www.theguardian.com/society/2010/nov/17/theresa-may-scraps-legal-requirement-inequality>; <https://www.theguardian.com/law/2012/jun/10/tory-folly-cutting-equality-act>; <https://ohrh.law.ox.ac.uk/why-is-the-british-coalition-government-undermining-the-equality-act-and-what-can-be-done/>

⁵⁶ The 1998 Human Rights Act includes protections against sex-based discrimination and has been instrumental in ensuring justice for victims of rape, domestic violence and VAWG. See:

<https://www.amnesty.org.uk/blogs/campaigns/what-has-human-rights-act-done-women>

⁵⁷ <https://www.equalityhumanrights.com/sites/default/files/pressing-for-progress-womens-rights-and-gender-equality-in-2018-pdf.pdf>. See also: <https://www.equalityhumanrights.com/en/our-human-rights-work/what-does-brexit-mean-equality-and-human-rights-uk>

⁵⁸ Conservative Party (2017), 'Forward, together: Our plan for a stronger Britain and a prosperous future'. Available at: <https://www.conservatives.com/manifesto>.

⁵⁹ BBC News. 2017. Theresa May: Human rights laws could change for terror fight. [ONLINE]. 7 June. Available at: <http://www.bbc.co.uk/news/election-2017-40181444>.

⁶⁰ Itals added. <https://publications.parliament.uk/pa/jt201617/jtselect/jtrights/695/695.pdf>

⁶¹ <https://publications.parliament.uk/pa/jt201617/jtselect/jtrights/695/695.pdf> itals added

⁶² Video of statement by Dominic Raab available here: <https://twitter.com/LBC/status/1109110453073047553>

Gender Impact Assessments

Despite strong recommendations to do so, the Government has not conducted any gender impact assessments with regards to the impact of Brexit on Equality legislation or women's rights, nor on the contents of the Withdrawal Agreement. The EHRC and WBG have both recommended that comprehensive, equality impact assessments be carried out with respect to Brexit, particularly in areas of equality law and trade deals⁶³. Whilst the Government has published a brief *Equality Analysis of the Withdrawal Bill*, at only 14 pages and with little engagement with gender equality, the analysis is very limited in scope⁶⁴.

In December 2017, Baroness Hussein-Ece raised the question in the House of Lords regarding “what equalities impact statement the Government had undertaken into the implications of Brexit”. Brexit Minister Lord Callanan initially replied that it had carried out an Equality Analysis, but when pressed again on the question of impact assessments, simply stated that “we do not need to be part of the EU or be bound by EU legislation to have strong equalities protection” and that “the noble Baroness need not fear”⁶⁵. As noted elsewhere in this report (p. 24), Lord Callanan has himself called for the scrapping of key EU Directives which benefit women workers post-Brexit, including the Pregnant Worker's Directive. To date, the Government has expressed no intention to conduct either gender nor equality impact assessments for any area of Brexit, despite multiple calls from women's and equalities organizations. The impact of austerity measures on women following the Governments rejection of the use of gender impact assessments should act as a stark warning of the detrimental effects gender-blind policies can have on women across the UK.

Assessments of the impact of Brexit on Equality Law have instead been carried out by the Fawcett Society, the Women's Budget Group, the House of Commons Women and Equalities Committee, the TUC, and the EHRC⁶⁶. The latter two have also commissioned independent legal council on the matter of equality law and employment rights in relation to the impact of Brexit on women⁶⁷. Whilst their analysis has been invaluable in understanding the implications of Brexit on women's rights and equality law, it is disappointing that this research has gained little traction with the Government, nor has the extent of the issue revealed by these groups prompted the Government to conduct its own gender impact assessment in this area.

⁶³ <https://wbg.org.uk/wp-content/uploads/2018/03/Economic-Impact-of-Brexit-on-women-briefing-FINAL-1.pdf>; <https://www.equalityhumanrights.com/sites/default/files/pressing-for-progress-womens-rights-and-gender-equality-in-2018-pdf.pdf>

⁶⁴ Equality Analysis: EU (Withdrawal) Bill. July 2017. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/629244/European_Union_Withdrawal_Bill_equality_analysis.pdf

⁶⁵ <https://hansard.parliament.uk/Lords/2017-12-21/debates/25B2A992-5960-4534-B701-642266550481/BrexitEqualitiesImpactAssessment>

⁶⁶ See footnotes 9-13.

⁶⁷ Legal counsel by Jason Coppel QC, commissioned by the EHRC. Available at: <https://www.equalityhumanrights.com/sites/default/files/eu-withdrawal-bill-legal-advice-jason-coppel-qc.pdf>; legal counsel by Michael Ford QC, commission by the TUC (<https://www.tuc.org.uk/sites/default/files/Workers%E2%80%99rights%20from%20Europe%20the%20impact%20of%20Brexit%20-%20Michael%20Ford%20QC.pdf>)

Concerns arising from the UK's Record on Equality Law: EU and Domestic

Whilst the Government is correct in its assertion that the UK has a high level of gender equality by global (and EU standards), this should be used to justify or legitimize the current lack of necessary action to ensure that this level does not regress following or as a result of Brexit. In many areas UK equality law has been driven by EU pressure, with equal pay between men and women being a notably example.

The UK has a contentious record on gender equality with the European Union, taking the lead in pushing forward as well as restricting and blocking various pieces of progressive legislation. It has exhibited significant resistance to several EU laws both at the level of negotiation within the EU and in relation to the law's domestic implementation, forcing the ECJ to intervene on multiple occasions to ensure UK citizens' rights are protected. The Pregnant Workers Directive and the Women on Boards Directives have received substantial resistance and subsequent watering down as a result of UK actions with the EU. Areas where the ECJ has pushed and expanded rights and protections in the UK through its interpretations of EU equality law also include: Equal treatment of transgender people; Associative discrimination; and Pregnancy Discrimination⁶⁸.

Furthermore, whilst the UK does have a positive record on women's rights and equality law domestically, legislative progress in these areas have slowed over the past two decades. The last three conservative-led Governments have exhibited a pattern of resistance towards proposed equalities legislation (2010-2019). Recent Conservative Governments have consistently voted against various proposed laws aimed at promoting equality and human rights since 2010. These include several key proposals aimed at tackling gender inequality, with the Government (and the Conservative Party):

- J *Voting against* "calling on the Government to ensure women and protected groups are not disproportionately impacted by tax and benefit changes and *against* publication of a gender equality strategy to improve the position of women"⁶⁹ (2016)
- J *Voted against* "carrying out an assessment of the impact of Government policies on women; *against* mitigating any disproportionate burden on women and *against* publishing a gender equality strategy"⁷⁰ (2015)
- J *Voted against* "requiring an annual report from the Equalities and Human Rights Commission analysing information on the gender pay gap and making recommendations to close it"⁷¹ (2015)
- J *Voting in favour* to "remove the duty on the Commission for Equality and Human Rights to work to support the development of a society where people's ability to achieve their potential is not limited by prejudice or discrimination and there is respect for human rights"⁷² (2013)

Whilst the Government has made various statements confirming that it has no intention of rolling back worker's rights and protections after Brexit⁷³, these are not legally binding. These statements have also been contradicted by Government officials and senior Ministers, exacerbating concerns that the intention to

⁶⁸ <https://www.parliament.uk/business/committees/committees-a-z/commons-select/women-and-equalities-committee/inquiries/parliament-2015/impact-of-brexit-on-equalities-agenda-16-17/>

⁶⁹ <https://www.theyworkforyou.com/debates/?id=2016-12-14a.823.0#g853.0>

⁷⁰ <https://www.theyworkforyou.com/debates/?id=2015-12-09b.1057.0#g1104.4>

⁷¹ <https://www.theyworkforyou.com/debates/?id=2015-07-01b.1521.1#g1592.3>

⁷² <https://www.theyworkforyou.com/debates/?id=2013-04-16b.216.4#g247.0>

⁷³ In addition to various statements by Government figures

(<https://www.parliament.uk/business/news/2019/march/statement-on-protection-of-workers-after-the-uks-withdrawal-from-the-eu/>), in 2019 Theresa May announced additional measures she claimed would better protect workers rights after Brexit. (<https://www.gov.uk/government/news/workers-rights-to-be-protected-in-uk-law>), although the validity of these claims have been widely challenged.

safeguard these rights is subject to the current character of the Government, which has seen multiple changes, resignations and contestations of leadership since the referendum result. It should also be noted that progress on gender equality, particularly in relation to equalities legislation, funding and initiatives by the Conservative Government (since 2010) has slowed comparative to recent previous Governments, with little to no progress made in the past 10 years⁷⁴. Evidence suggests that despite significant Government action towards gender equality, overall progress has slowed, and in some areas regressed as a result of Government policy (including legislative and economic policies)⁷⁵.

Previous and ongoing UK resistance to EU equality law within the EU negotiating processes and implementation, consistent rejection of key equality legislation proposals by recent previous Governments, and previous and ongoing calls for scrapping laws which protect female workers all point to a potentially hostile environment towards these rights and protections post-Brexit.

b. The Loss of Legal Protections and Safeguards for Equality Law Post-Brexit

This section will address the actual and potential losses of equal rights and protections for women as a result of the legislative impact of Brexit on equality law and standards in the UK. The Government has already excluded the EU Charter of Fundamental Rights (EU Charter) from UK law, declared that the UK will no longer be under ECJ jurisdiction, and excluded future EU case law and Directives from domestic law and court rulings⁷⁶. The loss of the EU Charter, ECJ jurisdiction and EU case law, as well as the protection floor and systemic pressure and impetus, means that the legal foundations underpinning equality law in the UK will be less stable and open to change and revocation by future Governments. In particular, several EU Directives which provide key rights and protections for women, which have received significant resistance by the UK during their negotiation and implementation, will be more vulnerable to erosion as a result of Brexit and the Government's refusal to sufficiently safeguard them. These specific Directives have also been subject to increased calls for their amendment or revocation by key figures in Government, including Brexit Ministers and negotiators, under proposals for deregulation and reprioritising business interests over worker's rights and equality standards. It is imperative that the Government provide legally binding guarantees that these rights and protections for women will not be rolled back post-Brexit, which would result in a widening economic and rights gap between men and women in the UK.

Loss of the EU Charter of Fundamental Rights

In 2017 the UK parliament voted to exclude the EU Charter of Fundamental Rights from UK law post-Brexit. The Charter provides binding protections for key rights, including the right to dignity, freedom and justice, as well as key workers and citizens rights and a dedicated chapter on equality (in comparison, the HRA makes no mention of equality). These include rights which are particularly important for women,

⁷⁴ <https://www.theguardian.com/inequality/2017/oct/11/uk-no-further-forward-on-tackling-gender-inequality-eu-league-table-shows>

⁷⁵ <https://www.ft.com/content/63343654-f617-11e7-88f7-5465a6ce1a00>; <https://www.theguardian.com/inequality/2017/oct/11/uk-no-further-forward-on-tackling-gender-inequality-eu-league-table-shows>; <https://www.independent.co.uk/news/uk/home-news/theresa-may-resign-womens-rights-austerity-benefits-conservative-leader-a8929141.html>;

⁷⁶ <http://www.legislation.gov.uk/ukpga/2018/16/enacted/data.xht?view=snippet&wrap=true>

such as the right to equality between men and women, including employment, work and pay⁷⁷, the right to non-discrimination on the basis of sex⁷⁸, and the right to protection from maternity-based dismissal and to maternity and parental leave⁷⁹.

The EHRC found that several rights protected by the Charter “do not have equivalent protections in UK law and may be lost”⁸⁰. These include the right to dignity, the rights of the child, the right to fair and just working conditions, the right to effective remedy, and most importantly, the right to non-discrimination⁸¹. These rights all have a particular significance for women, as, for example, women make up the majority of primary carers of children and are more likely to experience poor and unjust working conditions⁸². The loss of the free-standing right to non-discrimination, which protects women against gender-based discrimination, is especially concerning. This right does not currently exist outside of employment law in the UK, meaning that outside of employment cases women do not have the right to non-discrimination on the basis of sex.

Independent legal counsel from Jason Coppel QC, commissioned by the EHRC⁸³ found that the decision to exclude the Charter “did not live up to [the government’s] promise that Brexit should not lead to a reduction in fundamental rights”⁸⁴. It found that as a result of the loss of the Charter there would be:

- J) **“Less power to protect rights:** The Charter provides more powerful mechanisms for protecting rights than are available elsewhere in UK law.” (for example, the Charter protects claimants’ right to effective remedy in discrimination cases at work)
- J) **“Less flexibility to create new rights and reflect change:** The Charter is a ‘living instrument’, meaning that it is not static and the rights it provides must reflect social change and be interpreted in the light of present day conditions. Because of this, the Charter has created valuable new rights and extended existing rights”
- J) **“A lower level of protection for fundamental rights:** The Charter makes sure that EU law upholds basic rights and can also be used to strike down any EU law that undermines these rights. Many EU laws will be transferred to UK law and become ‘retained legislation’. After Brexit we will lose our protection around retained EU law, resulting in a lower level of protection for human rights.”
- J) **“Creating gaps in basic human rights:** Losing the Charter would create significant gaps in substantive rights, because it includes rights that do not have direct equivalents in other UK human rights law.”
- J) **“Losing the Charter principles:** The Government’s proposals mean losing the Charter principles, which can be used to interpret rights and other laws”
- J) **“Legal uncertainty and confusion:** By scrapping the Charter, the Government will create unnecessary legal uncertainty and confusion. The Government’s ‘right by right analysis’ ... is a

⁷⁷ Article 23 of the EU Charter of Fundamental Rights Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012P/TXT&from=EN>

⁷⁸ Article 21, *ibid*

⁷⁹ Article 33, *ibid*

⁸⁰ <https://www.equalityhumanrights.com/en/what-are-human-rights/how-are-your-rights-protected/what-charter-fundamental-rights-european-union-0>

⁸¹ <https://www.equalityhumanrights.com/sites/default/files/pressing-for-progress-womens-rights-and-gender-equality-in-2018-pdf.pdf>

⁸² [http://www.europarl.europa.eu/RegData/etudes/STUD/2016/556933/IPOL_STU\(2016\)556933_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2016/556933/IPOL_STU(2016)556933_EN.pdf)

⁸³ <https://www.equalityhumanrights.com/sites/default/files/eu-withdrawal-bill-legal-advice-jason-coppel-qc.pdf>

⁸⁴ <https://www.equalityhumanrights.com/en/what-are-human-rights/how-are-your-rights-protected/what-charter-fundamental-rights-european-union-0>

recipe for costly and time-consuming litigation as the courts seek to establish how far the rights in the Charter continue to apply after Brexit.”⁸⁵

The counsel stated that “all of these problems can be solved by keeping Charter protections in UK law”,⁸⁶ and that loss of the Charter “will lead to a significant weakening of the current system of human rights protection in the UK”⁸⁷. The EHRC also found that “retained law is incomplete without the Charter, which is frequently referred to in EU law and provides the framework within which it operates”⁸⁸, meaning that equality law will be subject to increased uncertainty and instability as Charter’s role as a key foundation of equalities legislation is removed.

These findings have been supported in a joint letter from the UK’s four bodies for human rights and equalities (EHRC, ECNI, NIHRC, and SHRC). The letter stated that “We are particularly concerned that loss of the Charter of Fundamental Rights of the EU will lead to gaps in protection and that removing the Charter as part of the Brexit process would create significant legal uncertainty; retained law would simply be incomplete without it”⁸⁹. A further joint letter from key equality organizations and figures (including Amnesty International, WBG, EHRC, BIHR, and the Fawcett Society) also mirrored these concerns, and called into question the government’s assurances that rights will not be weakened following Brexit, claiming that “independent legal advice shows this to be wrong”⁹⁰.

The decision to remove the EU Charter of Fundamental Rights from UK law in the face of expert legal advice that this will severely undermine the foundations of equality law in the UK is deeply concerning. The exclusion of the Charter represents one of several losses to the layers of EU protection for women’s rights in the UK. It is a worrying example of how the Government’s expressed commitment to maintaining gender equality post-Brexit is consistently at odds with its actions.

The European Court of Justice and EU Case Law

Former Prime Minister Theresa May stated that the UK will cease to be under the jurisdiction of the ECJ following Brexit⁹¹ (this is also expressed in the Withdrawal Act⁹² and will also be the case under a no-deal Brexit). The ECJ has played a significant role in ensuring equal rights and protections are upheld, and in many cases, acting as a progressive force for gender equality in UK law. The decision to leave the ECJ’s jurisdiction has been a source of concerns for various groups, and the subject of sincere cautions from senior legal experts⁹³.

⁸⁵ <https://www.equalityhumanrights.com/sites/default/files/eu-withdrawal-bill-legal-advice-jason-coppel-qc.pdf>

⁸⁶ <https://www.equalityhumanrights.com/en/what-are-human-rights/how-are-your-rights-protected/what-charter-fundamental-rights-european-union-0>

⁸⁷ <https://www.equalityhumanrights.com/sites/default/files/eu-withdrawal-bill-legal-advice-jason-coppel-qc.pdf>

⁸⁸ Equality and Human Rights Commission Report. European Union (Withdrawal) Bill: House of Lords Third Reading, May 2018. Available at:

https://www.equalityhumanrights.com/sites/default/files/european_union_withdrawal_bill_house_of_lords_third_reading_16_may_2018.pdf

⁸⁹ <https://www.equalityhumanrights.com/en/our-work/news/joint-statement-uks-human-rights-and-equality-bodies-brexit>

⁹⁰ <https://www.equalityhumanrights.com/en/our-work/news/eu-withdrawal-bill-will-not-protect-uk-rights-open-letter>

⁹¹ <https://www.instituteforgovernment.org.uk/explainers/what-prime-ministers-speech-means>

⁹² Section 6, paragraph 1. Available at:

<http://www.legislation.gov.uk/ukpga/2018/16/enacted/data.xht?view=snippet&wrap=true>

⁹³ <https://www.tuc.org.uk/sites/default/files/Workers%E2%80%99%20Rights%20from%20Europe%20the%20impact%20of%20Brexit%20-%20Michael%20Ford%20QC.pdf>;

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/women-and-equalities-committee/impact-of-brexit-on-the-equalities-agenda/oral/38384.html>

In an independent legal opinion commissioned by the TUC, Michael Ford QC stated that “it is difficult to overstate the significance of EU law in protecting against sex discrimination. A history could be written based on the theme of progressive decisions of the ECJ correcting unprogressive tendencies of the domestic courts”⁹⁴. Key rulings on gender equality include: the Defrenne II judgment on equal pay for men and women; the Bilka judgment on excluding pension rights for part-time (mainly women) workers as ‘indirect discrimination’; and the Marschall judgement on equal opportunities and positive discrimination.

Sam Smethers, Fawcett Society CEO, added that “without the European Court we would not have had any of the more progressive decisions taken in the past 20-30 years related to maternity rights, part-time workers rights, pension rights ... If we don’t have the European Court, we’re losing a progressive force in our jurisdiction”⁹⁵.

In addition to the loss of the ECJ as a significant enforcer of gender equality and non-discrimination for future cases, there is also uncertainty regarding the role of EU case law in these areas post-Brexit. The Fawcett Society found that there “remains a lack of clarity for the courts on what to do about EU case law. EU case law, among other things, strengthened and extended maternity rights”⁹⁶ (Fawcett Nov 2018).

Helen Kennedy QC has suggested that whilst “UK senior courts will still look at ECJ judgments” this will be “no more so than, for example, Australian judgments” and that “we’re about to see the Court of Justice (ECJ) be sidelined”. “The big concern”, she states “is rights, like paternity/maternity rights and employment rights, will be diluted in the long-term”⁹⁷. This legal uncertainty, and the possible loss or downgrading of EU case law, leaves a large body of law on women’s rights and gender equality exposed and unsecured.

Women in the UK will no longer be able to seek ECJ rulings to protect their rights⁹⁸, and will instead be entirely reliant upon domestic courts, which have been less progressive and more restrictive in several areas relating to women’s rights and gender equality comparative to EU courts. Reduced legal aid, the loss of EU Charter rights (such as the right to non-discrimination), the loss of future EU case law and potential regression of current rights and standards will mean that women will face additional barriers to achieving justice within the UK legal system and may experience a relative loss of rights and equality standards as a result. Like the loss of the EU Charter, the loss of ECJ jurisdiction and EU case law peels back another layer of protection for women’s rights and gender equality in the UK, leaving women increasingly exposed to regressive shifts in future laws and policies.

Women’s Employment Rights and Protections: EU Directives at Risk

This section will assess specific EU Directives on gender equality in employment law which are particularly at risk of erosion post-Brexit, including:

-) The Pregnant Workers Directive
-) The Working-Time Directive
-) The Temporary Agency Workers Directive
-) The Part-Time Workers Directive

These provide key rights and protections which are particularly beneficial to women workers in the UK, such as: improved equal pay rights, protection from sex-based employment discrimination, improved workplace safety and rights for pregnant women and new mothers, entitlements to paid time-off for antenatal

⁹⁴ Page 16. Available at: <https://www.tuc.org.uk/sites/default/files/Brexit%20Legal%20Opinion.pdf>

⁹⁵ <https://www.ft.com/content/a1ec120c-6307-11e7-91a7-502f7ee26895>

⁹⁶ <https://www.fawcettsociety.org.uk/Handlers/Download.ashx?IDMF=294c23f5-95f4-4f00-a8ce-eb52e7606c6c>

⁹⁷ Interview <https://www.legalcheek.com/2017/02/we-spoke-to-baroness-helena-kennedy-qc-about-brexit/>

⁹⁸ Section 6, paragraph 1 of the Withdrawal Act states that UK courts are not bound by future ECJ rulings, and “cannot refer any matter to the [ECJ] on or after exit day”. Available at: <http://www.legislation.gov.uk/ukpga/2018/16/enacted/data.xht?view=snippet&wrap=true>

appointments, maternity and childcare, and protection from sex or maternity-based dismissals. Women also make up a majority of temporary agency, part-time and atypical workers who typically receive lower levels of pay, rights, job security and employment entitlements than their majority-male full-time counterparts. These Directives each provided direct and indirect improvements for women workers through new and enhanced rights for atypical workers, equal standards and practices, and specific employment rights, which significantly benefited women workers and reduced gender inequality in employment.

These Directives will no longer be guaranteed by EU law once the UK leave the EU, leaving the rights, protections and entitlements established and secured by EU law open to amendment, repeal and revocation as a result of Brexit. The UK has demonstrated significant resistance to the establishment of these laws during EU Council negotiations, as well as resistance to their domestic implementation, in some cases requiring ECJ intervention in order to ensure UK worker's rights are respected in the UK. The rights enshrined in these Directives have also been subject to ongoing pressure by various Government and Brexit figures prioritising deregulation for businesses over the maintenance of worker's rights and protections. Notably, in 2012 Brexit minister Lord Callanan gave a speech in the European Parliament stating that "we could scrap" EU rights and protections for pregnant women and agency workers, and proposed abolishing the whole employment and social affairs directorate⁹⁹. Callanan called for the UK to specifically scrap the Working-Time, Agency Workers and Pregnancy Workers Directives, all of which particularly benefit women workers. Despite the government's assurances that worker's rights will not be undermined following Brexit, there are many MPs who have, like Callanan, expressed an intention to pursue exactly this¹⁰⁰. In 2017, then Prime Minister Theresa May refused to rule out scrapping the Working Time Directive, the Agency Directive and the Pregnant Workers Directive¹⁰¹. The Fawcett Society has further raised concerns that Government assurances that there will be no regression of worker's rights and equality law post Brexit offer "no legislative certainty" or binding guarantees, leaving key rights and protections "at risk"¹⁰².

EU legislation which has been highlighted as vulnerable to erosion post-Brexit are disproportionately those which provide key rights and protections for women workers. Coupled with the tendency for women's employment interests and protections to be sidelined or over-looked in political and media coverage and

⁹⁹ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+CRE+20120201+ITEM-012+DOC+XML+V0//EN&query=INTERV&detail=3-025-000>

¹⁰⁰ Dominic Raab has a long history of opposition to worker's rights and protections, describing them as 'obstacles to British business' and stating that 'I don't believe in economic and social rights' (<https://www.tuc.org.uk/blogs/tory-charge-brexit-has-spent-his-career-attacking-workers-rights>; <https://www.independent.co.uk/news/uk/politics/dominic-raab-brexit-eu-workers-rights-uk-talks-brexit-secretary-a8438706.html>; <https://www.independent.co.uk/voices/dominic-raab-eu-worker-rights-employee-protection-uk-economy-a8440511.html>); Michael Gove MP and John Whittingdale MP included the Pregnant Worker's Directive in a list of regulations suggested for scrapping which was given to companies. (available at: <https://www.theguardian.com/politics/2016/dec/07/tory-mps-suggest-firms-draw-up-list-for-bonfire-of-eu-laws-after-brexit>); Liam Fox strongly supports trade deals which would deprioritise workers rights (<https://www.tuc.org.uk/blogs/five-reasons-why-liam-foxs-%E2%80%9Cideal%E2%80%9D-us-uk-trade-deal-would-be-disaster-workers>); Boris Johnson has called for scrapping the Working-Time Directive and other key rights and protections (<https://www.scotsman.com/news-2-15012/unions-say-boris-johnson-s-brexit-vision-scrap-workers-rights-1-4688904>); Andrea Leadsom MP called for minimum wages, maternity rights and pay, and other worker's rights to be entirely scrapped for very small businesses (available at: <https://www.politics.co.uk/news/2016/07/05/minimum-wage-maternity-pay-scrapped-plans-andrea-leadsom>); See also: <https://www.farrer.co.uk/news-and-insights/blogs/brexit--a-bonfire-of-workers-rights/>; and https://www.huffingtonpost.co.uk/entry/working-time-directive_uk_5a38f926e4b0860bf4aaee7f for more examples. It should be noted that 4 of the 6 MPs mentioned here (Raab, Johnson, Leadsom, Gove) are the top 4 frontrunner candidates for the UK's next Prime Minister (May 2019).

¹⁰¹ Hansard, 18th December 2017. Cols. 748, 753, 757, 762, 768

¹⁰² <https://www.fawcettsociety.org.uk/Handlers/Download.ashx?IDMF=294c23f5-95f4-4f00-a8ce-eb52e7606c6c>

analysis, the implications of losing key safeguards protecting these laws requires more attention and scrutiny if women's employment rights and standards are to be maintained post-Brexit.

Maternity Rights and the Pregnant Worker's Directive

Discrimination against pregnant workers has been a particular area of weakness for gender equality in the UK, with a EHRC study finding that 50% of new mothers indicated that maternity had negatively impacted their opportunities, status and job security¹⁰³. Research by the EHRC found that 11% of mothers (equivalent to 54,000 every year) said they had been forced to leave their jobs as a result of their pregnancy¹⁰⁴.

The Pregnant Worker's Directive¹⁰⁵ received very high levels of resistance from the UK, both in terms of its negotiations within the EU and its implementation in the UK. The Directive established and guaranteed several key rights and protections for pregnant women and new mothers in employment:

-) Pregnant workers guaranteed a minimum of 14 weeks paid maternity leave, with a mandatory 2 weeks of leave before birth
-) Maintenance of employment rights and maternity pay during maternity leave periods
-) Protection against firing pregnant women (due to health risks and as a safeguard against discrimination) and the right to return to the same job after maternity leave
-) Protection against discrimination on the basis of pregnancy or maternity
-) Paid time-off to attend antenatal appointments
-) Health and safety protections for women who are pregnant, breast-feeding, or new mothers in their duties and workplace
-) Pregnant women cannot be forced to work overnight

As a result of the Directive, UK women were now entitled to paid time off for antenatal appointments and protection from harm in the workplace for pregnant and breastfeeding women. UK women's right to maternity leave, and their protection from dismissal or replacement and maternity-based discrimination was also now guaranteed by EU law. Prior to this law, in the UK a pregnant woman would have had to compare herself to a sick man in order to prove discrimination. Now, pregnant workers and new mothers are protected by specific laws protecting them from discrimination and harm in the workplace. These laws apply to 8.3 million working parents in the UK, and 430,000 pregnant workers and new mothers directly benefit from them each year¹⁰⁶.

UK resistance during EU negotiation of the proposed Directive resulted in the law being "revised and watered down", with the proposal being "dragged down by the UK, at the end only representing a mere safety-net"¹⁰⁷. Despite the clear legal requirement of the Directive, the UK continued to push against and resist domestic implementation of maternity rights established by the law. Effective implementation required an intervention by the ECJ to enforce pregnant workers rights in the UK¹⁰⁸. As an EHRC study suggests,

¹⁰³ https://www.equalityhumanrights.com/sites/default/files/mothers_report_-_bis-16-146-pregnancy-and-maternity-related-discrimination-and-disadvantage-experiences-of-mothers_1.pdf

¹⁰⁴ *ibid*

¹⁰⁵ Pregnant Workers Directive 1992/85/EEC

¹⁰⁶ Based on number of women in employment with a child under 1 year old from Labour Force Survey, October - December, 2015. See: https://www.tuc.org.uk/sites/default/files/Women_workers_and_the_EU.pdf

¹⁰⁷ Guerrina, R. and Masselot, A. 2018. 'Walking into the Footprint of EU Law: Unpacking the Gendered Consequences of Brexit'. *Social Policy & Society*. 17:2. Page 323. Available at:

<https://www.cambridge.org/core/journals/social-policy-and-society/article/walking-into-the-footprint-of-eu-law-unpacking-the-gendered-consequences-of-brexit/474525763BBC4724ECD736BE40DD6137>

¹⁰⁸ *ibid*

the lack of compliance and implementation by employers and domestic courts resulted in a failure to sufficiently protect pregnant workers from decreased opportunities, status and job security¹⁰⁹.

More recently, in 2010, the European Parliament passed (with strong support) a series of amendments to the 1992 Pregnant Workers Directive which would have increased minimum maternity leave from 14 to 20 weeks and introduced a requirement for full pay for women on maternity leave. Unfortunately, the UK (alongside Germany) led opposition to these proposals in the Council, blocking the law from passing entirely¹¹⁰. Vote Leave committee member and Conservative MP, Chris Grayling MP, was a particularly strong voice on behalf of the UK in the EU in favour of blocking the proposal¹¹¹.

Experts argue that this persistent resistance to pregnant worker's rights and protections is a clear indicator of the risk posed to it following Brexit, when the UK is under no obligation to continue to uphold it, and have concluded that "advocacy for women's access to pregnancy and maternity rights are likely to become quickly and deeply eroded"¹¹².

Furthermore, the loss of EU case law will undermine legal certainty around maternity rights. As the Fawcett Society and TUC have highlighted, "EU case law ... strengthened and extended maternity rights" in the UK (Fawcett Nov 2018), and led to a "much more comprehensive set of rights for pregnant women and new mothers in the workplace"¹¹³. Examples of these include *Coote v Granada Hospitality* 1998; *Webb v EMO Cargo Ltd* 1994; and *Brown v Rentokil Ltd* 1998.

A report by the TUC also notes that "since 2008, women on additional maternity leave have had access to the same contractual rights as women on ordinary maternity leave as a result of ECJ case law. This means, for example, that employers are obliged to make contributions into occupational pension schemes for longer than the first 26 weeks of leave"

Rights and protections for pregnant workers is one of the most vulnerable areas of EU law protecting women. Whilst it is very unlikely that these rights will be immediately revoked, largely due to the likelihood of public and media backlash, the persistent opposition of the Government and refusal to secure these rights makes them particularly vulnerable. The nature of EU laws and standards for pregnant women means that, unlike most other vulnerable Directives which disproportionately affect women, these will specifically and exclusively affect women. Whilst there will also be consequences for children, partners and families, women will be the primary victims of eroding rights for pregnant workers and employed mothers. It is critical that these rights are given sufficient protection, as it is often rights which are specific to women which are sidelined in public and political debates and discussions of worker's rights.

The Working-Time Directive

The UK has been persistently resistant towards the EU Working Time Directive¹¹⁴, particularly during its negotiation within the EU. The UK negotiated concessions in the proposal for the Directive and subsequently abstained from the final vote¹¹⁵. Prior to its passing, in 1996 the UK sought to have the Directive annulled by the ECJ, without success (*United Kingdom v Council of the European Union* C-

¹⁰⁹ EHRC. 2016. *Pregnancy and Maternity-Related Discrimination in the Workplace: Recommendations for Change*.

Available at: <https://www.equalityhumanrights.com/en/managing-pregnancy-and-maternity-workplace/ourrecommendations-tackle-pregnancy-and-maternity>

¹¹⁰ <https://www.euractiv.com/section/social-europe-jobs/news/ministers-to-shelve-maternity-leave-directive/>

¹¹¹ <https://www.gov.uk/government/news/uk-ministers-lobby-europe-against-socially-regressive-maternity-proposals>

¹¹² Guerrina & Masselot. 2018. 'Walking into the Footprint of EU Law'

¹¹³ https://www.tuc.org.uk/sites/default/files/Women_workers_and_the_EU.pdf

¹¹⁴ Working Time Directive 93/104/EC

¹¹⁵ House of Commons Library. 2016. *Brexit: Employment Law Briefing Paper*. Available at: <https://researchbriefings.files.parliament.uk/documents/CBP-7732/CBP-7732.pdf>

84/94)¹¹⁶. Implementation required further intervention by the ECJ and EAT in order to secure these rights and entitlements, which the UK was found to have insufficiently implemented¹¹⁷.

The Directive introduced maximum 48-hour working weeks (although the UK has an opt-out mechanism to avoid this), mandatory breaks and rest allowance, and 4 weeks of paid annual leave. Prior to this, there was no statutory right to paid annual leave in the UK (with the exception of agricultural workers). The Directive gave nearly 5 million women the right to paid holidays for the first time in the UK¹¹⁸. The Directive also establishes a range of rights and standards regarding health and safety, night work and workplace standards.

Whilst the UK has since raised holiday entitlements by 1.6 weeks above the minimum set by the Directive (including bank holidays), there remains widespread political opposition to the law. The Directive has been largely criticised by several key conservative Brexit figures, lead by Michael Gove, who stated his support “to scrap this daft directive”¹¹⁹. Former Brexit Ministers Boris Johnson, Martin Callanan and Liam Fox, as well as pro-Brexit Conservative MPs Jacob-Rees-Mogg, John Redwood, Christopher Chope, Andrea Leadsom, Priti Patel, Peter Bone, Philip Davies, Sir Edward Leigh, David Nuttall, and Philip Hollobone have all spoken out publicly against the Working Time Directive, many of whom have called for its abolition after Brexit¹²⁰. In particular, former Brexit minister and negotiator Dominic Raab wrote in a policy report for Centre for Policy Studies that “Britain should secure a total opt-out from the working time directive and scrap the UK Regulations”¹²¹.

The possibility that the rights and standards protected by the Working Time Directive will be undermined post-Brexit is of serious concern to women workers in the UK. The TUC has warned that losing the Directive could mean 7 million workers lose their right to paid holidays, a majority of these being women workers¹²². Whilst men complete more hours of paid work than women on average, women complete more hour of work overall, including paid and unpaid labour¹²³. Women spend 12.5 hours more per week doing unpaid work than men¹²⁴, with work breaks, days off, and rest periods granted by the directive being essential to prevent unsustainable levels of time poverty among women workers. The 48-hour maximum working week also encourages a more balanced split of paid working hours between men and women, inhibiting traditional labour divisions between male paid and female unpaid labour¹²⁵. In this way, women are encouraged to participate in the labour workforce and men are not shouldered with the burden of being the sole provider through excessive working hours.

The Working Time Directive remains one of the most at-risk pieces of EU legislation in the face of deregulatory pressures. The erosion or revocation of key rights and entitlements would not only impact a vast majority of UK workers, but will specifically impact women due to the unequal distribution of unpaid

¹¹⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A61994CJ0084>

¹¹⁷ <https://www.hardingeans.com/news/2016/02/11/fulton-v-bear-scotland-and-other-holiday-pay-cases-where-are-we-now/>

¹¹⁸ <https://campaign.goingtowork.org.uk/petitions/hands-off-our-holidays-don-t-let-boris-and-gove-scrap-our-working-time-rights?source=tuc-email>

¹¹⁹ https://www.huffingtonpost.co.uk/entry/working-time-directive_uk_5a38f926e4b0860bf4aaee7f?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guc_referrer_sig=AQAAACQdYDdqL7IUJkU5626l805LGNRHQgoP0ok7oK7Sb5WjcJUnNcjhJ0c4YDDqBbCR5R6a9wnlZmnH3XJbOcuR_5S49JeMD7D0IS_iLbab9KsF5q5QnYJmN-8V8gMHYznn3JSw3PXrQ-nOH7QQHRcme_gK0e3pjMv1gaEDtx-D7_6A

¹²⁰ https://www.huffingtonpost.co.uk/entry/working-time-directive_uk_5a38f926e4b0860bf4aaee7f

¹²¹ <https://www.independent.co.uk/news/uk/politics/dominic-raab-brexit-eu-workers-rights-uk-talks-brexit-secretary-a8438706.html>

¹²² <https://campaign.goingtowork.org.uk/petitions/hands-off-our-holidays-don-t-let-boris-and-gove-scrap-our-working-time-rights?source=tuc-email>

¹²³ <https://stats.oecd.org/index.aspx?queryid=54757>

¹²⁴ *ibid*

¹²⁵ <https://www.etuc.org/en/working-time-directive>

labour. Considering the high levels of resistance and continued opposition to the Directive, and the implications of its loss for worker's rights and gender equality standards, the Government must take proactive steps to guarantee these rights if it is to maintain social and gender equality standards post-Brexit.

The Temporary Agency Work Directive

The 2008 EU Temporary Agency Work Directive also received significant resistance from the UK, and has been highlighted by legal experts as at-risk post-Brexit¹²⁶. The UK's enactment of the 2010 Agency Workers Regulations grants the lowest level of protection permitted by the Directive. Criticism of the Directive persists and the Directive is among the three highlighted by Callanan which the UK could 'scrap' post-Brexit and which then Prime Minister Theresa May has refused to rule out scrapping. Legal advice commissioned by the TUC found that "[i]n the event of Brexit [...] any Government with a deregulation agenda would repeal or at least radically reduce the effect of the Agency Workers Regulations"¹²⁷.

The Directive protects agency workers from discrimination and unequal treatment on the basis of their employment status, granting them equal rights, protections and entitlements to non-agency workers. Women make up a majority of agency workers, as well as 85% of the current growth in agency worker numbers, which is expected to reach 1 million in 2020¹²⁸. Women also specifically benefit from the Directive in that it grants equal entitlement to paid time-off for antenatal appointments after 12 weeks of employment. A report by the Women's Committee warned that this right "*may be subject to change* when the UK leaves the EU"¹²⁹.

Part-Time Workers Directive

The UK has the 6th highest gender gap for part-time employment in the EU at 19.8%. Whilst only 9.8% of men work part-time, four times as many women do, with 39% of women in part-time employment¹³⁰. Overall, women make up 3 out of every 4 part-time workers in the UK¹³¹ and tend to work part-time for longer period than men. This is largely due to women's role as the primary carers for children and other dependents, as well as the high levels of unpaid domestic and informal labour women are burdened with.

Following a series of gains in rights for part-time workers resulting from EU sex discrimination and equal pay law, in 2000 the EU passed the Part-Time Worker Directive and, in 2002, the Fixed-Term Worker Directive. These further improved rights to equal treatment for part-time and fixed-term workers. Part-time workers gained the right to equal treatment without having to show that their less favourable treatment amounted to sex discrimination by comparing themselves to male full-time colleagues, removing barriers to equal treatment in female-dominated sectors without accessible comparisons¹³². These Directives received significant resistance by successive Conservative Government. Key Government and Brexit figures, including tory leadership frontrunner Boris Johnson MP, and Brexit Minister Lord have called for the Social Chapter (which these Directives and the rights enshrined within them are based on) to be scrapped or opted out of post-Brexit¹³³. Independent legal counsel commissioned by the TUC found that UK

¹²⁶ <https://www.tuc.org.uk/sites/default/files/Brexit%20Legal%20Opinion.pdf>

¹²⁷ *ibid*

¹²⁸ <https://www.bbc.com/news/business-38199886>

¹²⁹ <https://publications.parliament.uk/pa/cm201617/cmselect/cmwomeq/90/90.pdf>

¹³⁰ https://ec.europa.eu/newsroom/just/document.cfm?doc_id=50074

¹³¹ <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/bulletins/uklabourmarket/july2018>

¹³² https://www.tuc.org.uk/sites/default/files/Women_workers_and_the_EU.pdf

¹³³ <https://www.independent.co.uk/news/uk/politics/boil-it-down-to-the-single-market-boris-johnson-calls-for-eu-referendum-8381456.html>; <https://www.independent.co.uk/news/uk/politics/martin-callanan-new-brexit-minister-eu-workers-agency-employees-pregnant-women-safeguards-a8027321.html>

regulations which are currently protected by these Directives are “vulnerable to repeal or radical adjustment should the UK leave the EU”¹³⁴, noting that:

*Earlier Conservative Governments ... vetoed earlier attempts to adopt Directives to introduce fair treatment for ‘atypical’ work, the Part-time Workers Directive was only extended to the UK when a Labour Government signed the Social Chapter, and in both cases it was EU law alone which drove the national implementing legislation.*¹³⁵

As well as the EU Directive on part-time workers, the EU has also contributed towards rights and entitlements through key ECJ case rulings. The 1986 Bilka judgment ruled that excluding part-time workers from occupational pension schemes constituted “indirect discrimination” and was contrary to the EEC Treaty since it affected women far more than men. Following this and as a result of the Preston case, 400,000 part-time women workers were able to claim an occupational pension for the first time and the Government changed the law to ensure equal access. The ECJ also ruled that paying female-majority part-time workers a lower wage than full-time worker constituted sex discrimination, and extended the limit on back pay compensation from two to six years for women who received unequal pay.

The loss of EU Directives which have established and continue to safeguard rights and protections for the majority-female workers in part-time, agency, and atypical employment would significantly widen the rights gap between male and female workers in the UK. These laws have been subject to UK resistance during their negotiation and implementation, and have been the subject of increased calls for deregulation post-Brexit which would disproportionately effect the rights of women workers.

Note: In the event of a no-deal Brexit, all of the rights and protections enshrined within the Directives mentioned in the section would not be protected in the UK under EU law. However, whilst these Directives would remain protected under the transition period in the case of a deal similar to the Withdrawal Agreement, this would not be the case in a no-deal Brexit – leaving these and further (see below) equality laws immediately exposed to change, erosion and revocation after the Brexit departure deadline.

Equality Directives at-risk under a No-Deal Brexit

The Withdrawal Agreement includes 4 key EU Directives on the subject of Gender Equality in the UK. Whilst these would continue to be protected under the Withdrawal Agreement in the event of a Brexit deal based on this agreement, they would *not be protected under a no-deal Brexit*.. Those Directives protected under the current Withdrawal Agreement are:

- J Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the **access to and supply of goods and services**.
- J Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of **employment and occupation**.
- J Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a **self-employed capacity** and repealing Council Directive 86/613/EEC.

¹³⁴ Page 28. Available at:

<https://www.tuc.org.uk/sites/default/files/Workers%E2%80%99rights%20from%20Europe%20the%20impact%20of%20Brexit%20-%20Michael%20Ford%20QC.pdf>

¹³⁵ *ibid*

- J) Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of **social security**.

Covering matters of gender equality in access to goods and services, employment and education, self-employment, and social security, these Directives uphold the minimum standards for Member States on these broad areas. In the event of a no-deal Brexit, virtually all Equality legislation, including all those which protect or benefit women and girls, would no longer be protected under EU law. Given the regressive trend in UK politics towards gender equality and the lack of acknowledgment by the Government regarding the impact of Brexit on women in the UK, the complete and immediate loss of the protection floor in the event of a no-deal Brexit would leave equality law and standards dangerously exposed to change and revocation post-Brexit.

c. Missing Out on Future Rights and Protections

There is also a significant risk that UK rights and protections will fall behind EU standards after Brexit. Recent and upcoming legislation, including the Anti-Discrimination, Work-Life Balance and Women on Boards Directives and the Accessibility Act, will not apply to the UK under current Brexit plans and timeframes (including May's deal and no-deal scenarios). Member States typically have between 1-2 years to transpose EU Directives into domestic law, meaning that if the UK formally leaves the EU within this time, recently passed legislation like the Accessibility Act and the Work-Life Balance Directive will most likely not be transposed into UK law before Brexit (it is even less likely that upcoming legislation like the Women on Boards and Anti-Discrimination Directives will pass in time for their implementation to be UK-binding).

The Withdrawal Act will not *prevent* the UK from replicating future EU laws¹³⁶, although the Government has no obligation to do so. Replication of future EU laws on equality will be determined only by the Government's decision to follow the EU's direction rather than its own on a particular policy issue. It is unlikely that the Government, particularly if Conservative or Eurosceptic, will follow EU direction on policies by replicating its laws post-Brexit.

Women's rights and equality organizations have expressed concerns that "there remains a huge danger that the UK may fall behind the EU on gender equality and women's rights"¹³⁷. The WBG's Brexit report raised multiple issues which challenge the likelihood that the UK will keep pace with gender equality in the EU. The report warned that the "UK does not have comparably influential institutions to those working in the EU to further gender equality, and at home, grassroots gender equality movements have been weakened by austerity", and add that "[i]nside the EU, the UK government has had a history of blocking progressive legislation"¹³⁸. The rights of workers within the EU may continue to be enhanced, yet there is "no guarantee that UK workers would benefit from these enhanced rights unless the UK remains within the Single Market"¹³⁹.

¹³⁶ <https://www.instituteforgovernment.org.uk/explainers/eu-withdrawal-bill-amendments-and-debates>

¹³⁷ <https://www.fawcettsociety.org.uk/Handlers/Download.ashx?IDMF=294c23f5-95f4-4f00-a8ce-eb52e7606c6c>

¹³⁸ WBG and Fawcett 2018 Report, page 10. <https://wbg.org.uk/wp-content/uploads/2018/03/Economic-Impact-of-Brexit-on-women-briefing-FINAL-1.pdf>. See also: Bunyan, D., Longworth, J. and Page, M. June 2017. 'The Making of Feminist Democracy in a Brexit Environment.' *Symposium: Strengthening gender equality in Post-Brexit Britain*. University of Bristol; Plomien, A. 2016 'The EU and Gender Equality: better off in, or out?'. *Engenderings*. <http://bit.ly/2EXXF6h>

¹³⁹ WBG and Fawcett Society 2018 Report, page 10. See also: TUC. 2016. *UK employment rights and the EU*. Available at: <http://bit.ly/2BVGv6z>

The risk that the UK will fall behind gender equality rights and standards in the EU is not confined to the distant future, but also includes immediate and ongoing legislation. It is likely that unless the Government takes a pro-active stance on transposing current, ongoing and future legislation on gender equality, the division between UK and EU standards on gender equality may become evident within months of the UK's formal departure.

The following sections will examine two key Directives which would greatly benefit women in the workplace by supporting and balancing childcare responsibilities and penalising businesses which disadvantage and exclude women from board positions. Given that these Directives go beyond current domestic legislation and the UK's resistance to these Directives within the EU, it is unlikely that the UK will implement these rights post-Brexit in pace (or close to) the rest of the EU.

The Work-Life Balance Directive

The EU has recently passed the Work-Life Balance Package (April 2019), consisting of amendments to the 2008 Pregnant Workers Directive and 2008 Self-Employed Directive, as well as introducing a monitoring system on progress towards the Barcelona Childcare Targets by member states. The Directive shifted legislative focus from health and safety to equality, and included several provisions which would directly benefit women and further progress on gender equality¹⁴⁰:

-) Introduced a minimum of 2 weeks of paid **paternity leave**
-) Increased the amount of non-transferable **paid parental leave** from 1 to 2 months, with a minimum of 4 months per parents, which may be taken in flexible forms (*improvement on UK rights and entitlements*)
-) Introduced **carers leave**, with at least 5 days granted per year for each parent (*improvement on UK rights and entitlements*)
-) Improved and guaranteed flexible working-arrangements available to working parents, including options of reduced and flexible working hours and flexibility at the place of work¹⁴¹

The Directive would provide a robust safety-net for UK working parents, preventing any regression on working parent's rights and entitlements, and would enable ECJ intervention were these rights were violated. **Parents would also now be entitled to paid parental leave and paid carers leave**, whereas parental and carers leave is currently unpaid under UK law. Paternity leave would also be granted for working fathers regardless of the 'period of work qualification' (Article 4, paragraph 2). Minister for Small Business Margot Parker stated that the entitlement to paid carers' leave would be a "completely new entitlement in the UK", creating a new category of paid parental leave¹⁴². A Select Committee report on the Directive proposal also found that it "would make substantial changes to the current entitlements to leave for working parents and carers in the UK"¹⁴³.

In evidence given to the Women's Committee, Human Rights expert Professor McColgan raised concerns that whilst the UK has good levels of statutory maternity leave and flexible working rights, it is "not very good within Europe" on issues of pay and childcare provisions, adding that falling behind progress on work-life balance policies in Europe and the Work-Life Balance Directive "would be a real loss".

¹⁴⁰ http://www.europarl.europa.eu/doceo/document/TA-8-2019-0348_EN.html?redirect

¹⁴¹ Text in bold indicates areas where UK standards would be improved if it implemented the Work-Life Balance Directive

¹⁴² <https://publications.parliament.uk/pa/cm201719/cmselect/cmeuleg/301-iii/30103.htm>

¹⁴³ *ibid*

If the UK formally leaves the EU within the next 2-3 years (the implementation period for this Directive), the UK will be under no obligation to introduce the Directive into UK law. UK Minister Andrew Griffiths, who was responsible for the Government report and position on the Directive, stated that he could not “provide certainty at this stage on whether the UK will be obliged to continue implementing EU Social and Employment legislation”¹⁴⁴. Considering that the **UK lobbied for the legislation to be held up and restricted at the Council level and expressed opposition to the legislation**, it is unlikely that the Government will decide to implement the Directive post-Brexit. It is therefore very likely that (unless the Government expresses firm intentions and actions to the contrary) working parents and carers will not be entitled to paid parental and carers leave as a direct result of Brexit, falling behind EU standards, and that this will severely and disproportionately affect women and inhibit vital progress on gender equality between working parents and more generally.

The Women on Boards Directive

In addition to the Pregnant Worker’s Directive, the UK has been particularly resistant to the proposed Women on Boards Directive. In anticipation of UK led resistance, the European Commission put forward a relatively unambitious proposal¹⁴⁵. The Directive required Member States to seek improvements to appointment procedures so that at least 40% of board members publicly listed companies were from the underrepresented sex by 2020. The UK was nevertheless resistant to the proposal, sending a pre-emptive letter to the Commission opposing the draft legislation (despite not yet knowing any of the details of the proposed legislation) and blocking its passage within the Council.

The UK instead advocated for self-regulation, despite the lack of widespread action by businesses needed for this approach to be effective¹⁴⁶. In 2018, just 29% of FTSE 100 board members were women, with this figure even lower for FTSE 250 companies at 23%, as well as 100 companies from the FTSE 350 having either one or zero female board members¹⁴⁷. Recent figures show no improvement on gender balance in top boardroom positions among FTSE 100 companies since Brexit, and a sharp drop in female board members among FTSE 250 companies¹⁴⁸. As the Directive has not yet been passed by the Council, it is unlikely that the UK will implement the contents of this proposal before its formal departure from the EU, particularly given the UK’s strong opposition to the Directive within the EU. In this case, it is likely that the EU will have a higher level of female board membership than the UK as a result of the UK’s decision to leave the EU.

There is also the risk that the impact of Brexit on UK businesses, coupled with the demand for female board members in Europe as member states push businesses to meet gender quotas following the Directive’s implementation (as Spain, France and Germany are already successfully doing), will push current and aspiring female board members towards mainland Europe¹⁴⁹. The push and pull factors in driving board-level female employees out of the UK may result in a fall in female board membership, and a backstep for gender equality goals in the UK.

¹⁴⁴ <https://publications.parliament.uk/pa/cm201719/cmselect/cmeuleg/301-xii/30107.htm>

¹⁴⁵ Guerrina and Masselot. 2018. ‘Walking into the Footprint of EU Law’; Masselot, A. and Maymont, A. 2015. ‘Gendering economic and financial governance through positive action measures: compatibility of the French real equality measure under the European Union framework’, *Maastricht Journal of European and Comparative Law*, 22:1, 57-70.

¹⁴⁶ Guerrina and Masselot. 2018. ‘Walking into the Footprint of EU Law’.

¹⁴⁷ <https://www.ft.com/content/ac1449b8-79f7-11e8-bc55-50daf11b720d>

¹⁴⁸ <https://www.theguardian.com/business/2018/jul/17/number-of-women-in-top-boardroom-positions-falls-report>

¹⁴⁹ <https://www.managementtoday.co.uk/does-brexit-mean-women/women-in-business/article/1416337>

2. The Socio-Economic Impact of Brexit on Women

This section will assess the socio-economic impact of Brexit on women in the UK and the multiple ways in which women will be specifically and disproportionately disadvantaged in this context. The multiple roles women play in the economy are often overlooked by mainstream analyses of the economic impact of Brexit. Whilst the clear-cut impact of Brexit male-dominated sectors such as job losses in the car manufacturing industry have received much media attention, the impact for women is often less clear, due to their multiple, overlapping roles and the often invisible nature of women's work. The UK's gender-blind approach towards economic policy, particularly the Government's steadfast pursuit of austerity measures which severely disadvantage women, will exacerbate the gender imbalance of Brexit costs towards women. This section will first address the impact of continued gender-blind austerity measures and future trade policies and agreements, as well as the expected widening of the gender pay and pension gaps. Following this, it will explore the diverse implications Brexit will have for women as workers (making up a majority of public-sector and precarious employment), and as a majority of consumers, public service users and carers.

Summary Points of Section 2

- J Austerity is predicted to continue due to Brexit, largely at the expense of women who have shouldered 86% of the cost of austerity measures since 2010.
 - J Predicted public spending cuts will hit women hardest as the primary users of public services, recipients of welfare benefits, public sector workers, and unpaid carers.
 - J Women are the primary shock-absorbers of family poverty and will bear the brunt of Brexit-induced increases in household expenditure and a decrease in household income
 - J Continued austerity will disproportionately affect women by increasing family and female poverty, gender-imbalanced tax and benefit changes, cutting female-dominated public services, decrease female labour participation and widen the gender pay gap. The Government has not taken sufficient steps to address these economic threats to women.
-
- J Women will be affected by gender-blind trade policies and agreements post-Brexit, which will impact women through environmental, consumer and public service standards. The UK is neither equipped nor has it taken steps to maintain current standards of gender equality within post-Brexit trade deals.
 - J Brexit may result in a widening gender pay gap (UK 4th worst in EU) due to loss of the EU Charter and founding treaties protecting equal pay for equal work (no longer guaranteed), EU case law extending and securing equal pay rights, EU funding tackling the gap, and the EU's Gender Pay Gap Action Plan. Brexit-related economic and deregulatory pressures are also likely to stall progress on closing the gap.
 - J The UK has been resistant to various proposals aimed at tackling the gender pay gap. Parliament rejected measures to close the pay gap, including EHRC action and reports to tackle the gap. Conservative MEPs voted against requiring big companies to disclose their gender pay gaps (despite government policy).
 - J The gender pension gap (almost 40%) may also widen due to increased rates of women in unpaid care work due to public services pressures, and the economic impact of Brexit on pensions (public

spending pressures on pension payments, rising living costs, a weakened GBP and falling insurance rates are likely to hit pensions post-Brexit).

- J Women workers face Brexit-driven job losses (especially in female-dominated clothing, services and care sectors), slow wage growth and widening gender pay gap, working time reductions (especially for female-dominated precarious and informal employment) and eroding employment standards
- J Female entrepreneurs are also less able than men to take advantage of post-Brexit business opportunities due to lower resources and flexibility
- J Predicted spending cuts and staff shortages as a result of Brexit will heavily impact female NHS workers (77% female workforce), by placing additional pressure on working hours, wages and working environment. Women in the NHS will most likely attempt to shield patients from the impact of staffing and spending problems on care standards by increasing their workload despite wage cuts

- J Women are the primary household budgeters and consumers, and the main purchasers and preparers of food for families. Predicted food price increases and shortages, as well as risks to consumer standards and protections, produced by Brexit will disproportionately affect women, particularly those in low-income households.

- J Predicted public service spending cuts and staff shortages will disproportionately affect women as the primary users of these services. Legal aid and policing are two examples where women's access to justice are inhibited due to public spending cuts. NHS cuts and shortages post-Brexit will likely have the most detrimental impact on women in terms of public services
- J As the primary users of NHS services, the impact of Brexit in terms of spending cuts, staff shortages and possible medical supply disruptions will disproportionately effect women. As recipients of reproductive and maternity care, as carers of high-use groups (including children, the disabled and the elderly) and as lower-income users, women will be hit hardest by limited services and falling care standards post-Brexit.

- J Women are expected to make up for the shortfall in health and social care post-Brexit, by shifting from paid to unpaid work. Women make up 80% of paid and 60% of unpaid carers, and are 4 times more likely to swap paid employment for unpaid care work.
- J This forced shift in the female labour force will result in increased monetary and time poverty for women, widen the gender pay and pension gaps, reduce women's career opportunities and economic independence, and entrench gender inequality within the labour market & households
- J Women are also at risk of losing EU rights for unpaid carers and will be disproportionately effected as receivers of social care for disabled and elderly people.
- J As well as adult social care, falling numbers of EU staff and public service funding means that women will again be forced into additional unpaid childcare work in order to fill this gap. Women also make up the majority of early education and childcare roles, as workers and volunteers, and will further effected by expected wage freezes/real-term cuts, increased work pressures and stretched resources.

a. Austerity, Trade and the Gender Pay Gap

Economic and gender experts have strongly asserted that women will bear the economic brunt of Brexit, and will be specifically and disproportionately effected through in their economic and gendered positions in society¹⁵⁰. Substantial research, including a key report by the Women's Budget Group and Fawcett Society, shows how the economic pressures of Brexit on employment, trade, businesses, household budgets, wages, pensions, welfare, and public services are deeply gendered.

There is widespread consensus among economists that Brexit will have a severe negative impact on the UK economy, the extent and severity of which will be primarily determined by the type of deal agreed upon between the UK and EU, with a no-deal scenario having the most damaging outcome for the UK economy. GDP growth is expected to fall between 2%, 5% and 8% according to Government figures, depending on whether the UK stays in the Single Market, agrees a Free Trade deal or leaves without a deal. The table below illustrates the predicted impact of Brexit on GDP from various sources, with figures showing the fall in GDP growth by 2030 comparative to if Brexit had not been initiated.

	Single Market	Free Trade Agreement	No-Deal (WTO Rules)
UK Treasury ¹⁵¹	-3.8% (-3.4 to -4.3%)	-6.2% (-4.6 to -7.8)	-7.5% (-5.4 -9.5%)
UK Government (by 2033) ¹⁵²	-1.4%	-5.8% (-4.9 to -6.7)	-8.5% (-7.7 to -9.3%)
UK Gov, Whitehall Briefing (by 2033) ¹⁵³	-1.6% (-0.6 to -2.6%)	-4.8% (-3.1 to -6.6%)	-7.7% (-5% to -10.3%)
National Institute of Economic and Social Research ¹⁵⁴		-3.9%	-5.5% (if orderly)
Price Waterhouse Coopers ¹⁵⁵		-1.2% (-3.1% in 2020)	-3.5% (-5.5% in 2020)
London School of Economics ¹⁵⁶		-6.3 to -9.5%	
International Monetary Fund ¹⁵⁷		-3.2% (-2 to -3.4%)	-6.2% (-5.2 to -7.8%)
Average (range)	-2.3% (-0.6 to 4.3%)	-4.7% (-1.2 to -9.5%)	-6.5% (-3.5 to -10.3%)

In all comparative estimates, a no-deal scenario will have the worst effect on the British economy. During a 2018 cabinet meeting, the Governor of the Bank of England Mark Carney compared the effects of a no-deal Brexit to the 2008 financial crisis which resulted in a decade of austerity measures¹⁵⁸. Economic growth has already slowed significantly, despite the UK having not formally exited the EU, and GDP growth has

¹⁵⁰ WBG and Fawcett Society 2018 Report; Geurrina and Murphy 2016.

¹⁵¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/517415/treasury_analysis_economic_impact_of_eu_membership_web.pdf

¹⁵² <https://commonslibrary.parliament.uk/brexit/brexit-and-the-economy-government-analysis-of-the-long-term-impact/>

¹⁵³ <https://www.parliament.uk/documents/commons-committees/Exiting-the-European-Union/17-19/Cross-Whitehall-briefing/EU-Exit-Analysis-Cross-Whitehall-Briefing.pdf>

¹⁵⁴ <https://www.niesr.ac.uk/media/gdp-be-4-lower-longer-term-it-would-have-been-had-uk-stayed-eu-new-niesr-report-reveals-13565#.XMmTUDBKIHs>

¹⁵⁵ <https://www.pwc.co.uk/economic-services/assets/leaving-the-eu-implications-for-the-uk-economy.pdf>

¹⁵⁶ <http://cep.lse.ac.uk/pubs/download/brexit04.pdf>

¹⁵⁷ <https://www.imf.org/en/News/Articles/2018/11/13/na111418-uk-economic-outlook-in-six-charts>

¹⁵⁸ <https://www.theguardian.com/politics/2018/sep/13/no-deal-brexit-could-be-as-bad-as-2008-financial-crash-carney-says>

fallen by 2-2.5% between the 2016 referendum period and 2018¹⁵⁹. In 2015 economic growth in the UK was among the highest levels in the G7. By 2018 it was among the lowest¹⁶⁰.

The impact of Brexit on economic growth in the UK is among a number of factors which indicates a substantial negative impact on the economic prospects for the UK and its citizens post-Brexit. Comparative declines in trade, foreign direct investment, business growth, and EU funding as a result of the UK's impending departure, as well as the economic uncertainty generated from the Brexit induced political and economic turmoil, is expected to have a severely detrimental impact on the economic wellbeing and prosperity of UK citizens. If the Government responds to the economic impact of Brexit similarly to its response to the 2008 financial crisis, particularly in terms of gender-blind austerity measures and spending cuts, it is extremely likely that women will bear the brunt of the economic hardship imposed by Brexit. Continued austerity, gender-blind trade agreements, and a widening gender pay and pension gap will exacerbate the existing wealth inequality between men and women in the UK. This section will assess the ways in which women will be disproportionately economically effected by Brexit by examining these factors, with the following section (b) looking at how these factors will effect women through their specific roles as workers, consumers, public service users and carers.

Austerity Measures, Public Spending Cuts and Female & Family Poverty

There is general consensus among economists that austerity measures will continue as a result of Brexit, particularly in the event of a no-deal scenario¹⁶¹. The Institute for Fiscal Studies found that austerity would have already ended if the UK had not decided to leave the EU in 2016, and that austerity measures are likely to continue for at least 1 to 2 years as a result of Brexit¹⁶². Despite the Chancellor of the Exchequer pledging to end austerity if a Brexit Deal is reached, economists remain deeply sceptical that this will be achievable in any way¹⁶³.

UK-wide public finances post-Brexit are predicted to be £12bn worse off per year, according to evidence given to the Treasury by the Office for Budget Responsibility¹⁶⁴. According to IFS estimates, the 2019-2020 budget deficit will rise by £20-40bn, with public spending predicted to fall by £7-48bn by 2030 as a result¹⁶⁵. £4.2 billion in public spending has already been diverted towards directly-related Brexit costs, such as the £2 billion cost of no-deal planning¹⁶⁶. Economic growth has also already slowed significantly, despite the UK having not yet formally exited the EU, with GDP growth falling by 2-2.5% between the 2016 referendum and 2018¹⁶⁷. The likelihood of continued austerity, particularly in the absence of gender impact

¹⁵⁹ Springford, J., Insight: The cost of Brexit to June 2018, Centre for European Reform, 30 September 2018.

https://www.cer.eu/sites/default/files/insight_JS_23.6.18_0.pdf

Born, B., Mueller, G., Schularick, M., Sedlacek, P., £350 million a week: The output cost of the Brexit vote, Vox-CEPR Policy Portal, 1 October 2018.

¹⁶⁰ <https://www.niesr.ac.uk/sites/default/files/publications/NIESR%20Report%20Brexit%20-%202018-11-26.pdf>

¹⁶¹ <https://www.ft.com/content/4b566c36-0521-11e9-9d01-cd4d49afb3e3> ; see also

<https://mainlymacro.blogspot.com/2019/03/will-brexit-make-austerity-worse.html>

¹⁶² <https://www.ifs.org.uk/uploads/publications/comms/r116.pdf> ; <https://www.ifs.org.uk/publications/8297>

¹⁶³ <https://www.ft.com/content/4b566c36-0521-11e9-9d01-cd4d49afb3e3>

¹⁶⁴ Page 759. https://www.cambridge.org/core/services/aop-cambridge-core/content/view/04090F70EE20AD9D47C8B5610021E725/S0047279417000514a.pdf/cohesion_policy_after_brexit_the_economic_social_and_institutional_challenges.pdf

¹⁶⁵ <http://bit.ly/2APugV2>; The latter estimate is made on the assumption that tax and spending remain constant as a proportion of GDP. See also: <https://wbg.org.uk/wp-content/uploads/2018/03/Economic-Impact-of-Brexit-on-women-briefing-FINAL-1.pdf>

¹⁶⁶ <https://uk.reuters.com/article/uk-britain-eu/british-government-to-activate-full-no-deal-brexit-preparations-idUKKBN1OH13I>

¹⁶⁷ Springford, J., Insight: The cost of Brexit to June 2018, Centre for European Reform, 30 September 2018.

https://www.cer.eu/sites/default/files/insight_JS_23.6.18_0.pdf

assessments, is perhaps the most immediate threat to women in the UK as a result of Brexit. This issue is critical, not only in terms of the unjust economic hardship placed on women, but also in terms of the regression of women's economic empowerment, long-term prosperity, and wider socio-economic equality. The likelihood of continued gender-blind austerity measures and the Government's persistent refusal to carry out sufficient, comprehensive gender impact assessments, is one of the most pressing threats to women in the UK as a result of Brexit.

The severe and disproportionate impact of the past decade of austerity measures on women has been well documented¹⁶⁸. Women have shouldered the burden of a staggering **86%** of the cost of tax and benefit changes since 2010, with £80.7bn of the total £94bn savings coming at the expense of women, according to the House of Common Library¹⁶⁹. Living standards dropped most dramatically for lone parents (90% female) and single female pensioners as a result of welfare cuts in 2010¹⁷⁰.

Public spending cuts disproportionately affect women through a 'triple whammy' effect¹⁷¹:

1. As the primary users of public services and recipients of welfare benefits.
2. As the majority of the public sector workforce.
3. As a majority of unpaid carers.

The public sector is heavily dependent on female workers, with 65% of the workforce being women and 40% of UK women's jobs being in the public sector (compared to 15% of male jobs)¹⁷². The loss of 500,000 jobs, a wage freeze and reduced pensions as a result of Government cuts¹⁷³ have had a severe economic impact on millions of women in the UK. Tax and welfare changes disproportionately disadvantaged women, ethnic minorities, disabled people and children, with BAME, disabled and single-parent women being most acutely affected¹⁷⁴. An EHRC review found that whereas UK men lost on average £30 per year, women lost £400 a year as a result of these changes (across the whole income distribution)¹⁷⁵.

In particular, women will be hit hardest as the primary shock absorbers for family poverty¹⁷⁶. Mothers within low-income households are more likely to go without food, clothing and warmth to protect their children and partners from the full impact of poverty¹⁷⁷. Women are also more likely to mitigate the effects of economic hardship by increasing both their paid and unpaid labour, in an effort to increase household incomes and reduce childcare costs¹⁷⁸. Family poverty and economic hardship also carries other,

Born, B., Mueller, G., Schularick, M., Sedlacek, P., £350 million a week: The output cost of the Brexit vote, Vox-CEPR Policy Portal, 1 October 2018.

¹⁶⁸ Fawcett Society. 2012. The Impact of Austerity on Women. Available at:

<https://www.fawcettsociety.org.uk/Handlers/Download.ashx?IDMF=f61c3b7e-b0d9-4968-baf6-e3fa0ef7d17f>.

Several reports by the Women's Budget Group are available here: <https://wbg.org.uk/resources/women-and-austerity/>. Hozic, A. and True, J. 2017. 'Brexit as Scandal: Gender and Global Trumpism'. *Review of International Political Economy*. 24:2.

¹⁶⁹ <http://researchbriefings.files.parliament.uk/documents/SN06758/SN06758.pdf>

¹⁷⁰ page 31 <http://hipatiapress.com/hpjournals/index.php/rasp/article/view/491/648> Calculations by S.

Himmelweit using data supplied by Howard Reed as used in WBG (2010) and Horton & Reed (2010).

¹⁷¹ Expression coined by Fawcett Society: <https://www.fawcettsociety.org.uk/>

¹⁷² page 32 <http://hipatiapress.com/hpjournals/index.php/rasp/article/view/491/648>

¹⁷³ *ibid*

¹⁷⁴ <https://www.equallyours.org.uk/edf-gendering-brexit-blog-series-dont-worry-womens-rights-and-equality-are-already-embedded-within-our-legal-framework/>; <https://onlinelibrary.wiley.com/doi/full/10.1111/jcms.12774>

¹⁷⁵ <https://www.equalityhumanrights.com/sites/default/files/cumulative-impact-assessment-report-executive-summary.pdf>

¹⁷⁶ WBG. 2005. Women's and children's poverty: making the links. Available at: <http://bit.ly/2zIUJa5>

¹⁷⁷ <https://oxfamilibrary.openrepository.com/bitstream/handle/10546/112550/women-s-children-s-poverty-010305-en.pdf?sequence=1> ; <https://www.thetimes.co.uk/static/brexit-austerity-work-otegha-uwagba-women-who-eu-rights/>

¹⁷⁸ WBG. 2005. *Women's and Children's Poverty: Making the Links*. Available at: <http://bit.ly/2zIUJa5>

unquantifiable costs for women, including emotional labour and an increased risk of experiencing domestic violence.

Researchers have also raised the concern that “Proposed tax reforms to lower the corporate tax rate will have the effect of transferring income and wealth away from those – especially women – who rely on public services to help with the work of social reproduction”¹⁷⁹. These tax reforms will also, they suggest, have the effect of increasing wealth inequalities and the gendered asset gap.

The impact of austerity will hit particularly hard at a time when household income is predicted to decrease as a result of depressed wages, an increased need for unpaid carers and job losses, and when household expenditure is predicted to increase due to a weakened pound and rising consumer prices. Household incomes are predicted to fall by £850-£6,400 per year after Brexit, according to an LSE study on the economic impact of Brexit¹⁸⁰. In terms of household expenditure, the USDAW predicts that the decreased GBP value and increased tariffs (in the case of no-deal) will cost households £580 per year on average, with poor households being the worst affected¹⁸¹.

Based on a November 2018 visit to the UK, UN Special Rapporteur on extreme poverty and human rights Philip Alston expressed deep concern that Brexit will have a devastating impact on “the most vulnerable and disadvantaged members of society who will be least able to cope and will take the biggest hit”, and specifically included women in the category of most vulnerable and disadvantaged as well as those “hardest hit” by austerity¹⁸². The report further stated that “[i]n my meetings with the government, it was clear to me that the impact of Brexit on people in poverty is an afterthought”. Alston also found that the UK’s austerity measures were in breach of a UN human rights agreement relating to women, and stated that “If you got a group of misogynists in a room and said how can we make this system work for men and not for women they would not have come up with too many ideas that are not already in place”¹⁸³.

The Government has consistently refused to carry out gender impact assessments on their economic policies, ignoring strong recommendations from the Women and Equalities Select Committee¹⁸⁴. Discussing the Committee’s report on the Government’s equality analysis, then Shadow Minister for Women and Equalities, Sarah Champion, criticised the Government’s attitude on this issue as “willful and deliberate evasion”, noting the Treasury’s “repeated and deliberate obstruction” of the report¹⁸⁵. In spite of mounting evidence and calls for action, when austerity measures were increased in 2015, the Government again refused to address the gender imbalance of its austerity policies. Notably, in December 2015, Parliament voted against proposals which would assess and mitigate the gendered impact of Government policies, including on austerity measures¹⁸⁶. Whilst 83% (£73.6 bn) of austerity-based savings had come at the expense of women during the 2010-2015 Coalition Government, this gender imbalance was worsened by the 2015-2017 Conservative Government. Measures announced in 2015-2017 placed 100% of the cost on women, with men accounting for a £1.1 loss in savings compared to the £7.7 bn gained at the expense of

¹⁷⁹ Hozic, A. and True, J. 2017. ‘Brexit as Scandal: Gender and Global Trumpism’. *Review of International Political Economy*. 24:2

¹⁸⁰ Dhingra, S., Ottaviano, G., Sampson, T. and Van Reenen, J. (2016) The consequences of Brexit for UK trade and living standards. LSE Centre for Economic Performance (<http://bit.ly/2hyR7wo>)

¹⁸¹ USDAW (2016) The Impact of Brexit on Consumers (<http://bit.ly/2AOABQT>)

¹⁸² <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23881&LangID=E>

¹⁸³ <https://www.bbc.com/news/uk-46236642>

¹⁸⁴ https://publications.parliament.uk/pa/cm201617/cmselect/cmwomeq/825/82504.htm#_idTextAnchor008; See also recommendations by the WBG and EHRC: <https://wbg.org.uk/wp-content/uploads/2018/03/Economic-Impact-of-Brexit-on-women-briefing-FINAL-1.pdf>; <https://www.equalityhumanrights.com/sites/default/files/pressing-for-progress-womens-rights-and-gender-equality-in-2018-pdf.pdf>

¹⁸⁵ <https://labourlist.org/2016/11/sarah-champion-today-the-tories-must-admit-they-have-forced-women-and-the-low-paid-to-bear-the-brunt-of-austerity/> See also: the Committee’s conclusions and recommendations https://publications.parliament.uk/pa/cm201617/cmselect/cmwomeq/825/82504.htm#_idTextAnchor008

¹⁸⁶ <https://www.theyworkforyou.com/debates/?id=2015-12-09b.1057.0#g1104.4>

women, bringing the total cost to £81.3 bn (85%) for women by 2017 (rising again to 86% in Dec 2017)¹⁸⁷. The Government's refusal to carry out gender impact assessments or take any action to mitigate the heavily disproportionate cost of austerity measures to women resulted in these costs being shifted entirely towards women rather than being rebalanced. There is a significant risk that if the economic impact of Brexit on women is not considered and mitigated by the Government, these patterns will persist. The Government's current stance on this issue means that, unless its position changes, women will be heavily and disproportionately economically disadvantaged by austerity measures and public spending cuts as a result of Brexit.

Post-Brexit Trade Policies and Agreements

The UK will be in a weaker negotiating position following Brexit when it comes to establishing trade deals with other countries¹⁸⁸. The WBG has warned that increased pressure from other countries in trade negotiations as a result of this weakened position may have serious negative consequences for environmental and consumer standards, public services and employment protections and rights in the UK¹⁸⁹. Erosion of these standards are likely to impact women due to their increased exposure: women are more vulnerable to the effects of environmental degradation and climate change; make up 70-80% of all consumer purchasing; are the primary users and workers of public services; are more likely to face employment discrimination and poor working conditions; and are more vulnerable to the erosion of rights.

Secretary of State for International Trade, Liam Fox, has already noted pressures from various countries for the UK to drop its human rights standards in order to secure trade deals¹⁹⁰, pressures which will increase if a good trade deal with the EU is not secured. In 2018, a joint letter from 20 organizations, consisting of various disabilities and equalities groups including Women's Budget Group, was sent to Liam Fox raising the issue that the Brexit Trade Bill "lets ministers change a wide range of laws – including the Equality Act – without parliamentary scrutiny, in order to implement international trade agreements"¹⁹¹.

In addition to these pressures, the UK severely lacks the experienced trade negotiators which are necessary to ensure that trade agreements and policies reflect gender equality objectives and do not economically disadvantage women¹⁹². The WBG stresses that the UK "will need to build from scratch the skills required to undertake impact assessments of potential trade deals" in order to safeguard women's rights and status in both economic and legal terms. This is unlikely to happen as the Government has made no indication of its intention to do so, and as the UK has exhibited a persisted 'gender-blindness' towards the economy¹⁹³. In response to recommendations from the House of Commons International Trade Committee to include gender-impact assessments for new trade deals¹⁹⁴, Minister for Trade George Hollingbery stated that such assessments would be "the province of the Treasury and/or DExEU"¹⁹⁵. At the time of writing, neither of these departments nor the UK Government have implemented gender impact assessments, and there is no

¹⁸⁷ <https://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN06758>

¹⁸⁸ Page 5, WBG and Fawcett Society 2018 Report.

¹⁸⁹ Pages 6, 14. Ibid

¹⁹⁰ <https://www.theguardian.com/politics/2019/feb/13/post-brexit-trade-partners-ask-uk-to-lower-human-rights-standards>

¹⁹¹ <https://www.libertyhumanrights.org.uk/sites/default/files/Trade%20Bill%20joint%20letter%20FINAL.pdf>

¹⁹² Page 6, WBG and Fawcett Society 2018 Report

¹⁹³ WBG and Fawcett Society Report Page 6, <https://wbg.org.uk/wp-content/uploads/2018/03/Economic-Impact-of-Brexit-on-women-briefing-FINAL-1.pdf>; also British Council (2016) 'The Economy' in Gender Equality and Empowerment of Women and Girls in the UK (<http://bit.ly/2HPTAhZ>)

¹⁹⁴ See: Report published November 2018:

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/international-trade-committee/trade-and-the-commonwealth-developing-countries/oral/88692.html>

¹⁹⁵ <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/international-trade-committee/trade-and-the-commonwealth-developing-countries/oral/88692.html>

evidence to suggest that it plans to do so prior to agreeing post-Brexit trade deals. Whilst the DExEU has stated that “the UK would promote the economic empowerment of all women through a gender-responsive trade policy”¹⁹⁶, this has not been supported by the department’s policies and actions on post-Brexit trade, which have been altogether ‘mute’ on gender, according to gender and trade experts¹⁹⁷.

Widening the Gender Pay and Pension Gap

Economic predictions suggest that a falling economy will stagnate the amount of money available for current and future pensions, that pension payments may be unable to keep up with the rising living costs following Brexit, and that a weakened pound and falling interest rates mean that insurers pay outs could devalue for future retirees¹⁹⁸. Further predictions that women will have to make up for the social care deficit through unpaid care work will likely further exacerbate the gender pension gap as women’s pension contributions.

The Gender Pay Gap

Parliament’s European Scrutiny Committee has raised concerns over a post-Brexit widening of the gender pay gap, with committee member Geraint Davies MP stating that “Brexit threatens to put Britain into reverse gear in terms of equal pay for women which would be a disaster as women have already disproportionately suffered from Government austerity.” The government’s response highlighted the legal requirement of all large companies to publish their gender pay gap and that the gap has progressively narrowed over time.

However, the UK’s approach relies on self-regulatory measures by employers in order to close the gap, which, as the UK has the 4th highest gender pay gap in the EU at 20.8% (EU average 16%)¹⁹⁹, has been criticised as insufficient. Progress in closing this gap has been slow, with no improvement since 2007, and with half of the years since seeing a reversal of progress²⁰⁰. Analysis of equal pay enforcement by the European network of legal experts found that “the United Kingdom shows worrying fluctuations (19.5 % in 2010, 19.7% in 2011, 21.2% in 2012, 20.5% in 2013, 20.9% in 2014 and 20.8% provisionally in 2015)”²⁰¹.

The primary concerns over a widening gap relate to the abolition of the European Charter which established equal pay as a fundamental right, and the economic effects of Brexit on women, including a reduction of workforce participation due to the social care deficit. The risk of losing EU funding for projects which tackle the gender pay gap, as there are currently insufficient guarantees that this funding will be sufficiently replaced²⁰², may further exacerbate a widening of the gap. For example, the Women Adding Value to the Economy project tackles the gender pay gap in Wales receives significant EU funding which is currently under threat.

Former Brexit Minister Dominic Raab has been vocal on the gender pay gap, suggesting that it may be the result of a “genuine choice” rather than “of discrimination”, dismissing reports from the EHRC that progress

¹⁹⁶https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/786626/The_Future_Relationship_between_the_United_Kingdom_and_the_European_Union_120319.pdf It should also be noted that this is the only mention of women and gender in the 106 pages of the DExEU’s White Paper on the Future Relationship between the United Kingdom and The European Union

¹⁹⁷ <http://speri.dept.shef.ac.uk/2018/10/25/gender-sensitive-trade-buzzword-or-basic-principle-of-post-brexit-trade-policy/>

¹⁹⁸ <https://www.newstatesman.com/2018/12/blokes-brexit-will-increase-gender-inequality-among-pensioners>

¹⁹⁹ https://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&language=en&pcode=sdg_05_20&plugin=1; https://ec.europa.eu/info/sites/info/files/aid_development_cooperation_fundamental_rights/annual_report_ge_2019_en.pdf

²⁰⁰ The gender pay gap widened in 2008, 2010, 2012, 2015, and 2017 according to EU data on gender pay gaps across the EU. Available at:

https://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&language=en&pcode=sdg_05_20&plugin=1

²⁰¹ <https://publications.europa.eu/en/publication-detail/-/publication/834d34ab-2d87-11e8-b5fe-01aa75ed71a1>

²⁰² see page 70-1 of this report

on closing the gap is “grinding to a halt”, calling proponents of closing the gender pay gap “sexist” and suggesting that “keeping women out of work is one of the easiest ways to bridge the gap”²⁰³. Considering the key role Raab has played as both Brexit minister and negotiator, and now conservative leadership candidate, the current and future influence of such views on government priorities is concerning.

The conservative party has succeeded in rejecting several measures from parliament which aimed at reducing the gender pay gap, including requiring an annual report from the EHRC on the gap and how to close it²⁰⁴. Despite its contrary domestic policy, the UK conservative party in the EU voted against requiring big companies to disclose their gender pay gap²⁰⁵. In October 2017, Conservative MEPs in the European Parliament voted against calls to establish binding measures for pay transparency, negotiate gender action plans for companies with over 50 employees, continue pay of remuneration and social security during leave, and against proposals for an ‘equal-earner equal-carer model’, which were put forward in a FEMM Committee report. As well as distractions and scepticism from within government, efforts to close the gender pay gap have also been stalled for businesses as a result of Brexit. Several articles have drawn connections between the financial and time pressures of Brexit as a distraction away from focus on reducing the gender pay gap²⁰⁶.

In addition to these concerns, it should also be noted that the EU has been a particularly strong actor in promoting and securing equal pay for men and women. The EU’s founding treaties established equal pay as a core value of the Union, with the introduction of Article 119 in the Treaty of Rome (157) as a pivotal moment for equal pay legislation in Europe²⁰⁷. Just prior to joining the EU, and in the same year (1970), the UK followed suit and implemented legislation on gender equal pay. As Baroness Drake stated in the House of Lords discussion of the impact of Brexit on women’s economic equality: “The impact that Article 157 and the accompanying EU Court of Justice case-law have had on women’s pay and pension rights in the UK cannot be overstated”. As well as being enshrined in the founding treaties, equal pay was strengthened through the Equal Pay Directive (75/117/EEC) which secured equal pay for equal value and broadened equal pay rights. Overall, the EU played an instrumental role in the introduction, implementation and protection of key rights and entitlements regarding equal pay between men and women.

The UK will also miss out on measures and initiatives within the EU’s Gender Pay Gap Action Plan, which includes concrete measures by the EU commission, Member States, National Authorities and key stakeholders to close the gender pay gap. These measures, which consist of legislative action, collaborative projects and targeted funding, include combating occupational and vertical segregation, tackling the care penalty, developing and valorising women’s skills, unveiling inequalities and stereotypes and developing research and knowledge on the gap.

Whilst the loss of EU case law, ECJ jurisdiction and the EU Charter will diminish the protection of equal pay rights, it is very unlikely that the UK will take legislative action to diminish these rights. There is little evidence of any governmental desire to undermine equal pay laws, and the Withdrawal Agreement includes the 2006 and 2000 Equal Treatment in Employment Directives²⁰⁸ as subject to enhanced protection post-Brexit. The concerns regarding equal pay is primarily that of the widening of the gender pay (and pension)

²⁰³ <https://www.politicshome.com/news/uk/political-parties/conservative-party/opinion/house-commons/96662/dominic-raab-we-must-end>

²⁰⁴ <https://www.theyworkforyou.com/divisions/pw-2015-07-01-37-commons/mp/24815>

²⁰⁵ <https://www.theguardian.com/politics/2015/oct/08/tory-meps-vote-against-resolution-disclosing-gender-pay-gap-eu>

²⁰⁶ <https://www.independent.co.uk/voices/brexit-gender-pay-gap-womens-equality-party-a8850431.html> ; https://www.huffingtonpost.co.uk/entry/gender-pay-gap-brexit-is-not-an-excuse-for-not-complying-with-the-law_uk_5ca350f9e4b04693a9478895 ; <https://graziadaily.co.uk/life/in-the-news/gender-pay-gap-brexit-distraction/>

²⁰⁷ <https://ukandeu.ac.uk/the-eu-as-a-force-for-gender-equality-reality-or-myth/>

²⁰⁸ Directive 2006/54/EC and Council Directive 2000/78/EC. Included in Annex 4(1) of the Withdrawal Agreement.

gap through indirect measures and inaction, rather than direct legislative action to exploit the diminished protection of equal pay rights. The predicted increase of women in unpaid social care work, businesses deprioritizing gender equality over Brexit, diminished access to legal protections and aid for pay discrimination claimants, and deregulation and reduced scrutiny for businesses, all against a backdrop of reduced protections and Government inaction, are likely to have a cumulative impact on widening the gender pay gap as a direct and indirect effect of Brexit.

The Gender Pension Gap

The gender pension gap, which is nearly twice the size of the gender pay gap at 39.5% (7th highest in EU28)²⁰⁹, may also widen as a result of Brexit²¹⁰. Due to employment gaps from childraising and unpaid care work, and the higher proportion of precarious and poorly-paid employment for women, women's state pension payouts are 40% lower than men's²¹¹. As women grow older, the gender pay gap widens, meaning their pension contributions decrease over time in relation to their male counterparts²¹². This is also combined with a longer life expectancy and a lower retirement age than men, meaning that they live off their pensions for longer. These factors contribute towards increased economic hardship for female pensioners, with women over 65 making up a significant proportion of vulnerable people in the UK²¹³, and 23% of single female pensioners living in poverty²¹⁴.

Economic predictions suggest that a falling economy will stagnate the amount of money available for current and future pensions, that pension payments may be unable to keep up with the rising living costs following Brexit, and that a weakened pound and falling interest rates mean that insurers pay outs could devalue for future retirees²¹⁵. Further predictions that women will have to make up for the social care deficit through unpaid care work will likely further exacerbate the gender pension gap as women's pension contributions are diminished as result of being forced to replace paid with unpaid employment.

b. The Socio-economic Impact of Brexit on Women as Workers, Consumers, Public Service Users and Carers

This section will assess the ways in which the various effects of Brexit will specifically or disproportionately impact women through their roles as workers, consumers, public service users and carers. Much of the work women do is overlooked in economic analysis, which often fail to account for domestic, social care, and informal labour, a vast majority of which is done by women. The WBG and Fawcett Society's report on the economic impact of Brexit on women has been particularly illuminating in terms of how women's multiple, and often invisible, roles will variously be affected by Brexit²¹⁶.

Women workers are likely to be adversely affected by the impact of Brexit in terms of predicted job losses, slow wage growth, a widening gender pay gap and potential erosion of employment standards and worker's rights. Women working in the services, clothing, and care sectors, as well as those in precarious and informal employment (all of which are female-majority forms of employment) will be particularly affected. The

²⁰⁹ https://ec.europa.eu/newsroom/just/document.cfm?doc_id=50074

²¹⁰ <https://www.newstatesman.com/2018/12/blokes-brex-it-will-increase-gender-inequality-among-pensioners>

²¹¹ <https://www.prospect.org.uk/help-at-work/pensions-retirement/pension-gender-pay-gap>

²¹² <https://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=2349&furtherNews=yes>

²¹³ *Ibid*

²¹⁴ https://www.ageuk.org.uk/globalassets/age-uk/documents/reports-and-publications/reports-and-briefings/money-matters/rb_apr18_poverty_in_later_life

²¹⁵ <https://www.newstatesman.com/2018/12/blokes-brex-it-will-increase-gender-inequality-among-pensioners>

²¹⁶ WBG and Fawcett Society 2018 Report

expected pressures Brexit will place on public services, particularly the NHS, will have a detrimental impact on the economic and working lives of the majority-female workers who have already been affected by a decade of austerity cuts and wage freezes. Whilst the male-dominated manufacturing industry has been forefront in media coverage of the impact of Brexit on UK workers, the more gradual and long-term effects of Brexit on women workers has been overlooked. The type of Brexit deal agreed will determine the extent to which women workers will be impacted in terms of their rights, working standards, pay and economic stability.

Women are the primary household budgeters and consumers, and the main purchasers and preparers of food for families. Predicted food price increases and shortages as well as risks to consumer standards and protections produced by Brexit will disproportionately affect women, particularly those in low-income households.

Expected cuts to public spending and rising staff shortages as a result of Brexit will disproportionately affect women as the primary users of public services. Women's access to healthcare, which is crucial not only for themselves but also in terms of access for children, disabled and elderly people, may be constricted and care standards are likely to fall. If the Government responds to the predicted economic fallout of Brexit in a similar way to the 2008 global financial crisis, women will again be forced to shoulder the economic and labour burden as a result. Women may face reduced access to justice through continued (or increased) cuts to legal aid and policing, falling healthcare standards and limited access to services, and will likely shield vulnerable dependents from falling services by compensating with their time and labour power at their own cost.

Women are expected to make up for the shortfall in health and social care as a result of expected defunding and the loss of large numbers of EU staff, by shifting from paid to unpaid work. Women make up 80% of paid and 60% of unpaid carers, and are 4 times more likely to swap paid employment for unpaid care work. The forfeiting of the rights and interests of women, migrants, and socio-economically disadvantaged groups, and the expectation that they will bear the brunt of Brexit costs whilst having their voices silenced, has been deeply and persistently evident throughout the Brexit process.

The Socio-economic Impact of Brexit on Women as Workers

As well as threats to women's employment rights, the predicted job losses caused by Brexit will have serious consequences for women workers. Estimated numbers of Brexit-related job losses so far range between 182,000²¹⁷ to 225,000²¹⁸, figures which are predicted to rise following the UK's formal departure from the EU. As well as job losses, Brexit is likely to produce slower wage growth and increased pressure on workers due to the economic stress on businesses and staff shortages²¹⁹.

A no-deal Brexit is predicted to produce the highest number of losses, with increased trade tariffs and barriers hitting UK businesses and employers. Of the three industry sectors most reliant on the EU for inputs (manufacturing, health & social care, and accommodation & food) and therefore vulnerable to increased costs, two of these have majority female workforces²²⁰. Within manufacturing, female-dominated workforces in clothing and textiles industries are at risk due to Brexit-related trade barriers, increased tariffs and supply disruptions²²¹.

In addition to job-losses, women workers may be particularly vulnerable to other forms of staff cutbacks, including reduced hours and increasingly sporadic shift patterns. Women make up the majority of workers

²¹⁷ <https://metro.co.uk/2019/02/22/interactive-map-shows-182000-brexit-related-job-losses-8719230/>

²¹⁸ <https://smallbusinessprices.co.uk/brexit-index/>

²¹⁹ <https://wbg.org.uk/wp-content/uploads/2018/03/Economic-Impact-of-Brexit-on-women-briefing-FINAL-1.pdf>

²²⁰ These being health and social care, and accommodation and food. Page 7, WBG and Fawcett Society 2018 Report

²²¹ *ibid*

in precarious and informal employment, including those in zero-hour contracts, agency and part-time work. These forms of employment are often low-paid and susceptible to change, meaning that low-income women are particularly vulnerable to non-redundancy staffing cuts. Women are also more likely to earn the minimum wage, with 8% of female workers earning minimum wage compared to 5% of male workers²²². Whilst this may protect women from some wage cuts comparatively to men, this will also increase the likelihood of reduced hours and redundancies among minimum wage-earning female workers²²³.

In relation to the increased precarity of employment rights post-Brexit, the WBG have highlighted the prevalence of women in low-paid precarious employment as a further area where women workers are vulnerable to Brexit effects. Drawing upon analysis from the Work Foundation, WBG's report on Brexit found that 'low-skilled' service sector workers, especially those in temporary or casual employment (both of which are predominantly women), "are most at risk post-Brexit of gradually eroding employment standards, for example, employment protection and minimum wage regulations"²²⁴.

Female Entrepreneurs

The WBG has also assessed the impact of Brexit on female entrepreneurs²²⁵. As EU import prices are likely to rise, new opportunities may be created for UK entrepreneurs. However, these opportunities will benefit those with the resources necessary to respond and adapt to these opportunities (wealth, transferable skills, and mobility). However, women are less likely to benefit from these due to their comparative lack of such resources, as they generally have lower savings and investments and often have restricted mobility due to caring responsibilities. As a result of the imbalance of resources between men and women, women are less likely to gain from potential opportunities resulting from trade liberalisation than men²²⁶. The gender gap between men and women as business owners (2:1), is likely to widen as women struggle to take advantage of post-Brexit opportunities whilst still facing the expected heavy costs of the UK's exit on business owners and employers.

Women Workers in the NHS

The health and social care sector is extremely at risk post-Brexit, with predicted cuts to public spending and worsening staff shortages threatening the jobs and working conditions of around 3.5 million women, who make up 79% of the sector's workforce²²⁷ (77% within the NHS)²²⁸.

Existing staff shortages have been exacerbated by increasing numbers of EU nationals leaving the NHS in the wake of Brexit, with EU staff recruitment having "plummeted" according to the NHS Employers chief²²⁹. Uncertainty over their rights as workers and citizens, a weakened GBP and perceptions of anti-migrant sentiments and the Hostile Environment are some of the factors leading to the growing shortage of EU staff in the NHS. Hospitals which are particularly dependent on EU staff, such as those with more than

²²² These numbers refer to employees aged 25 and older, which is the group that is covered by the National Living Wage. See figure 2.9 of the Low Pay Commission 2017 report. Available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/661195/Low_Pay_Commission_2017_report.pdf

²²³ <https://wbg.org.uk/blog/guest-blog-brexit-work-women/>

²²⁴ WBG and Fawcett Society Report, page 9. <https://wbg.org.uk/wp-content/uploads/2018/03/Economic-Impact-of-Brexit-on-women-briefing-FINAL-1.pdf>. See also Andriescu, M. and Giles, L. 2017. Could a bad Brexit deal reduce workers' rights across Europe?. *Work Foundation*. Available at: <http://bit.ly/2Cpc7ll>

²²⁵ WBG and Fawcett Society Report, page 7-8. <https://wbg.org.uk/wp-content/uploads/2018/03/Economic-Impact-of-Brexit-on-women-briefing-FINAL-1.pdf>

²²⁶ *ibid*

²²⁷ <https://researchbriefings.files.parliament.uk/documents/SN06838/SN06838.pdf>

²²⁸ ONS 2017 Labour force survey. Available at: www.ons.gov.uk. See also: WBG and Fawcett Society 2018 Report <https://wbg.org.uk/wp-content/uploads/2018/03/Economic-Impact-of-Brexit-on-women-briefing-FINAL-1.pdf>

²²⁹ <https://www.thebureauinvestigates.com/stories/2018-10-23/eu-doctors-nurses-hospitals-staffing-crisis>

1 in 5 doctors and nurses being non-British EU citizens²³⁰, are most vulnerable to Brexit hostility and uncertainty for EU nationals in the UK.

Female-dominated professions in particular have seen a rapidly widening recruitment gap, with the amount of EU nurses and midwives leaving rising by 29%, and the amount joining falling by 87%²³¹. The Royal College of Midwives has warned that at current rates, the NHS could lose all of its midwives in the next decade²³². The RCM stated that the number of EU midwives joining the NHS “fell off a cliff” immediately following the Brexit vote, with a 94% fall in just one year after the Referendum²³³. The Nursing and Midwifery Council has reported a shortage of 40,000 nurses in England²³⁴. Nursing shortages are likely to continue or worsen as the number of applications to study nursing has also decreased due to fees replacing bursaries for UK students and Brexit disincentivizing EU students from applying²³⁵.

The rising staff shortages and underfunding on the female-dominated workforce will likely result in increased workloads and work-related stress, ongoing pay-freezes, involuntary increases or reductions of hours, as well as falling care standards and rising patient mortality rates. UK healthcare workers have already experienced a 14% cut in real wages from 2010-2017²³⁶, and around 20% of nurses (88.6% female) have been forced to take a second job to make ends meet²³⁷. Furthermore, despite a vast majority of NHS staff being female, women are still severely underrepresented at the higher levels, with just 37% of senior roles going to women²³⁸. The effects of staff shortages and underfunding will likely impact lower-paid and junior roles the most, where female staff are the most prevalent.

The Socio-economic Impact of Brexit on Women as Consumers

UK consumers are predominantly female, with 70-80% of all consumer purchasing done by women²³⁹. As the primary purchasers for households and dependents, they often act as the managers or ‘gatekeepers’ of household’s expenditures²⁴⁰. They are also more likely to be poor, head low-income and single-parent households, and to manage poor household budgets²⁴¹. This position, in combination with their role as the primary purchasers and preparers of food for families, means that they are particularly vulnerable to rising food prices²⁴².

The Government’s Yellowhammer papers have stated that “there will likely be significant electricity price increases for consumers” and that “low income groups will be disproportionately affected” by any fuel price

²³⁰ *ibid*

²³¹ <https://www.nmc.org.uk/news/press-releases/new-nmc-figures-continue-to-highlight-major-concern-as-more-eu-nurses-leave-the-uk/>

²³² https://www.huffingtonpost.co.uk/entry/nhs-could-lose-all-its-eu-midwives-in-the-next-decade-experts-warn_uk_5ab27975e4b0decad04616b0

²³³ *ibid*

²³⁴ <https://www.rcn.org.uk/news-and-events/news/safe-staffing-legislation-to-avoid-patient-safety-crisis>

²³⁵ <https://theconversation.com/nhs-reliance-on-eu-staff-in-numbers-full-scale-of-brexit-risk-revealed-105326>

²³⁶ <https://wbg.org.uk/wp-content/uploads/2017/11/health-pre-budget-nov-2017-final.pdf>

²³⁷ Royal College of Nursing. 2017. The true cost of the pay gap. Available at: <http://bit.ly/2A2HotC>

²³⁸ <https://digital.nhs.uk/news-and-events/latest-news/narrowing-of-nhs-gender-divide-but-men-still-the-majority-in-senior-roles>

²³⁹ <https://www.bloomberg.com/diversity-inclusion/blog/top-10-things-everyone-know-women-consumers/>

²⁴⁰ *ibid*

²⁴¹ WBG. 2005. Women’s and children’s poverty: making the links. Available at: <http://bit.ly/2zIUJa5>

²⁴² Page 12. WBG and Fawcett Society 2018 Report. <https://wbg.org.uk/wp-content/uploads/2018/03/Economic-Impact-of-Brexit-on-women-briefing-FINAL-1.pdf>.

rises²⁴³. The increase of household costs, including energy and fuel prices, will fall heavily on women as the managers of household budgets and as the majority of heads of low-income households. The Yellowhammer papers also confirm warnings of food price increases and supply shortages:

*...Certain types of fresh food supply will decrease. Critical dependencies for the food supply chain...may be in shorter supply. In combination, these two factors will not cause an overall shortage of food in the UK but will reduce availability and choice of products and will increase price, which could impact vulnerable groups.*²⁴⁴

Food prices are predicted to rise post-Brexit, particularly in the event of a no-deal scenario. Increased tariffs on imported food products (30% of all UK food is imported, 70% of which is imported from the EU), insufficient harvesting labour (due to falling numbers of migrant workers), and a weakened pound all have the potential to push up food prices in the UK²⁴⁵. Already, various news outlets have reported links between Brexit and ‘shrinkflation’, where food product sizes are decreasing relative to their cost, as businesses attempt to mitigate the costs of a weakened currency²⁴⁶. The Institute of Fiscal Studies predicts that the poorest households will be most affected by these rises, with food making up 23% of all household expenditures for the poorest 10% in society, (in comparison to only 10% for the richest tenth)²⁴⁷. With one in five households “already experiencing, or at the margins of, food insecurity”, according to a recent FSA study, increased food prices are likely to push many more families over the edge²⁴⁸. Combined with the gendered effects of austerity, the predicted rise in food prices will compound women’s economic hardship and add a further burden to women bearing the brunt of family poverty.

As well as rising food prices, the threat of food shortages in the event of a no-deal Brexit will place additional pressure on women as the primary purchasers and preparers of food for UK households. Despite many households already stockpiling food²⁴⁹, this is unlikely to alleviate shortages, and may even exacerbate them. Women preparing food for their children and families, in the event of predicted shortages, will most likely have to make decisions which balance rising costs, dietary requirements (as fresh produce cannot be stockpiled, and is vulnerable to supply-chain delays) and availability of products.

Furthermore, women’s prevalence in the sphere of consumption also exposes them to eroding consumer rights and product standards²⁵⁰. The WBG has warned that “EU consumer law sets the framework for consumer rights in the UK and will be vulnerable to change by a future Government” after Brexit. These standards may also be undermined, the report adds, by poor future trade-deals with non-EU countries,

²⁴³ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/831199/20190802_Latest_Yellowhammer_Planning_assumptions_CD.L.pdf

²⁴⁴ *ibid*

²⁴⁵ WBG and Fawcett Society 2018 Report

²⁴⁶ <https://www.businessinsider.com/shrinkflation-brexit-food-prices-pound-2017-4?r=UK>; <https://www.theguardian.com/business/2017/apr/06/snack-attack-doritos-and-coco-pops-among-latest-products-to-shrink-in-uk>; <https://www.thegrocer.co.uk/buying-and-supplying/fmcg-prices-and-promotions/peperami-and-doritos-get-smaller-as-shrinkflation-hits-snacks/551079.article>

²⁴⁷ Page 12, WBG and Fawcett Society 2018 Report.

²⁴⁸ Food Standards Agency, The Food and You Survey Wave 4 (2017), p 26. Available at: <https://www.food.gov.uk/sites/default/files/food-and-you-w4-combined-report.pdf>; See also: Government report <https://publications.parliament.uk/pa/ld201719/ldselect/ldcom/129/129.pdf>

²⁴⁹ <https://www.thegrocer.co.uk/finance/brexit/food-suppliers-start-stockpiling-amid-fears-of-no-deal-brexit/571634.article>

²⁵⁰ WBG and Fawcett Society 2018 Report, pages 2, 5, 11. <https://wbg.org.uk/wp-content/uploads/2018/03/Economic-Impact-of-Brexit-on-women-briefing-FINAL-1.pdf>

threatening “the consumer rights and the erosion of consumer protections including, potentially, health and safety protections as well as food standards”²⁵¹.

The Socio-economic Impact of Brexit on Women as Public Service Users

Women constitute the primary beneficiaries of public services largely due to their caring responsibilities, low income and higher rates of poverty, and additional social and economic disadvantages (e.g. as single mothers, victims of domestic and sexual violence, people with disabilities etc). Public services and associated social infrastructure are relied on far more by women than men²⁵², primarily by supporting the female-dominated work of social reproduction, with cuts to public services increasing the unpaid labour carried out by women and placing additional barriers to carrying out this work. Women are more closely linked to and dependent upon a multitude of public services, including legal aid, public transport, education, and health and social care services.

Public services are likely to be heavily hit post-Brexit due to a variety of factors and risks:

1. The UK will be in a weaker trading position post-Brexit and therefore less able to resist pressure from future trade partners to increase company’s access to public services in the UK²⁵³. There is a significant risk that new trade deals will permit foreign service suppliers to challenge regulations protecting public services if they constitute a ‘trade barrier’²⁵⁴.
2. Assuming tax and spending remain constant as a proportion of GDP, IFS predictions that the 2019-2020 budget deficit will rise by £20-40 billion²⁵⁵ means that public spending will be £7-48 billion lower by 2030²⁵⁶. There is widespread expectation that the Government will reduce public spending as part of continued austerity measures. Cuts to public services, which are already at breaking point, and increased privatisation and service closures, will play a large role in reduced public spending post-Brexit.
3. The rise in EU public service workers leaving and falling numbers joining due to Brexit hostility and uncertainty further contributes towards an ongoing crisis in staff shortages, particularly within the NHS.

Spending cuts to public services, in combination with staff shortages and increased pressures of privatisation are expected to produce falling standards of care and service provisions, increased limitations on scope and access to these services, deprioritization of complex and specialist needs, and an increased burden on women to compensate for diminished services through increased unpaid labour. This report will briefly highlight the implications of cuts to legal aid and police budgets on women before discussing in more detail the impact of Brexit on the NHS and women’s role as users and suppliers of the service.

²⁵¹ WBG and Fawcett Society 2018 Report, page 11. <https://wbg.org.uk/wp-content/uploads/2018/03/Economic-Impact-of-Brexit-on-women-briefing-FINAL-1.pdf>. See also: 1 Citizens’ Advice Blog. 2016. ‘Brexit and consumer rights: What will life be like for consumers after Brexit?’ Available at: <http://bit.ly/2zLRXk9>; The Independent (2017, 31 July) ‘Brexit: Food Standards Agency should be able to say no to chlorinated chicken’ Available at: <https://ind.pn/2CN1PaN>

²⁵² WBG and Fawcett Society 2018 Report. <https://wbg.org.uk/wp-content/uploads/2018/03/Economic-Impact-of-Brexit-on-women-briefing-FINAL-1.pdf>

²⁵³ *ibid*

²⁵⁴ <https://ukandeu.ac.uk/the-economic-impact-of-brexit-on-women/>

²⁵⁵ <http://bit.ly/2APugV2>

²⁵⁶ WBG and Fawcett Society 2018 Report. <https://wbg.org.uk/wp-content/uploads/2018/03/Economic-Impact-of-Brexit-on-women-briefing-FINAL-1.pdf>

Cuts to legal aid as a result of austerity measures have already affected women seeking justice against employment discrimination and in cases where women are over-represented as claimants. An EHRC report details the diminished access women have to legal aid, particularly in private family law, housing and debt matters, which “may have had a disproportionately adverse impact on women”²⁵⁷. There has also been a sharp fall in claims of sex discrimination (76%), equal pay (57%), both in which women constitute 80% of all claimants, and pregnancy/maternity discrimination (42%) in 2017 following these cuts²⁵⁸. Coupled with the threat of losing vital legal rights and protections derived from EU law and case rulings, loss of ECJ protection, exacerbating economic pressures on women’s equality, and rising female and family poverty, continued or additional cuts to legal aid will severely limit women’s access to justice post-Brexit.

Cuts to policing and criminal justice services will effect women as the majority of victims of sexual harrasment and assault, rape, domestic violence, prostitution, honour-based violence, child sex abuse, and stalking²⁵⁹. These crimes are typically perpetrated by a partner or someone known to the victim, often go unreported, have very low levels of prosecution and conviction, are more likely to go unsolved, and have high levels of retraumatisation for victims seeking justice. Further cuts will reduce the level of training, resources, time and staff available to deal with these cases, which are often deprioritised due to social stigmas, poor staff training and their difficulties in prosecutions. Falling police service standards due to Brexit-driven public spending cuts will likely have a negative effects on victim’s access to criminal justice generally, but will specifically disadvantage women who face additional challenges and discrimination in gaining criminal justice for predominantly female-targeted crimes.

The NHS

As well as 77% of its workforce²⁶⁰, women make up a majority of beneficiaries of NHS services due to their caring responsibilities and lower incomes. Women are also more dependent upon healthcare provisions relating to sex and reproductive health, including access to contraceptives, gynecological check-ups and treatments, fertility treatments such as IVF and fertility drugs, maternity and childbirth care. Women are more likely to seek medical advice and consultations, yet are less likely to receive sufficient treatment, particularly for pain-related illness and conditions. The fact that women live longer and have a higher morbidity rate than men also contributes towards their increased use of healthcare services²⁶¹.

Similarly to their role as the primary consumers on behalf of households and dependents, women have a multiplier effect on NHS services. Women are more likely to be responsible for non-professional healthcare and support for children, disabled people, and the elderly, as well as ill relatives and other dependents. This includes taking them to seek medical help or attend appointments, picking up and administering prescriptions, and providing after-care and support following illnesses and operations. Family planning for couples is often dependent upon women’s access to reproductive healthcare, contraceptive options and medical consultations. Women’s use of maternity provisions, from prenatal appointments to childbirth to IVF treatments, significantly increases their reliance on the NHS, often to the benefit of not only them but also to their their unborn children or infant as well as their partner.

²⁵⁷ <https://www.equalityhumanrights.com/sites/default/files/pressing-for-progress-womens-rights-and-gender-equality-in-2018-pdf.pdf>

²⁵⁸ Ministry of Justice (2017), ‘Tribunals and gender recognition certificate statistics quarterly, employment tribunals table 1’. Available at: <https://www.gov.uk/government/statistics/tribunals-and-gender-recognition-certificate-statistics-quarterly-april-to-june-2017-and-2016-to-2017>. These figures compare the number of claims for the years ending June 2013 and June 2016.

²⁵⁹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/759770/women-criminal-justice-system-2017..pdf

²⁶⁰ ONS 2017 Labour force survey. Available at: www.ons.gov.uk. See also: WBG and Fawcett Society 2018 Report <https://wbg.org.uk/wp-content/uploads/2018/03/Economic-Impact-of-Brexit-on-women-briefing-FINAL-1.pdf>

²⁶¹ <https://bmcwomenshealth.biomedcentral.com/articles/10.1186/s12905-014-0145-2>

Contrary to Vote Leave's infamous claim that the "£350 million a week" the UK sends the EU could be used to "fund our NHS instead", the NHS will most likely face continued and even increased real-term budget cuts as a result of the economic impact of Brexit. The NHS will also face further financial challenges due to the loss of capital financing from the European Investment Bank as well as increased costs relating to recruitment, pharmaceuticals and other medical products²⁶². Coupled with falling numbers of EU workers contributing towards a growing crisis in staff shortages, the economic burden of Brexit on the NHS will pose a serious risk to patient's well-being and safety²⁶³. Expected increases in waiting times and falling patient care will put patient's lives at risk at a time when austerity has already had a severe impact on patient mortality rates.

The British Medical Journal has linked 120,000 excess deaths in England to health and social care spending cuts from 2010-2017²⁶⁴. Researcher's claims that 'relentless cuts' to the NHS is likely the cause of 30,000 deaths in June was met with Government dismissal, with a spokesperson stating that the figure was the result of 'personal bias'²⁶⁵. The Office for National Statistics recorded 50,000 excess deaths during the 2017-2018 winter period, the highest number in over 40 years, which have also been linked to Government spending cuts for healthcare²⁶⁶. In particular, women born into low-income households have seen their life expectancy fall as a result of austerity and infant mortality has risen significantly for poor families since 2011²⁶⁷.

It should also be noted that women are more stressed about Brexit, with more women experiencing stress at higher levels than men as result of Brexit according to a study on "Stress in Modern Britain" by the Physiological Society. High levels of stress carry increased mental and physical health risks and negatively impact work-production and quality of life. Suicide rates are also on the rise, with suicide among women and girls at its highest ever level this year, with three women dying per week as a result.

Furthermore, imported medicinal supplies may also be disrupted in the event of a no-deal Brexit. The Government's Yellowhammer paper stated that "the reliance of medicines and medical products' supply chains on the short straits crossing make them particularly vulnerable to severe extended delays; three-quarters of medicines come via the short straits"²⁶⁸. Many specialist medications used only by women, such as key hormonal replacement therapy drugs and contraceptive drugs, are manufactured in the EU. Disruption to medical supply chains from Europe as a result of a hard or chaotic exit from the EU leaves a large number of women vulnerable to "sudden and serious hormonal imbalances causing physical and emotional upheaval including depression and insomnia"²⁶⁹.

Brexit, particularly in the case of no-deal and increased restrictions on migration, will likely have a negative impact on women's access to healthcare. This not only has implications for women's health, safety and wellbeing, but that of their families and dependents, as well as added pressures on women's time, labour and caring responsibilities.

²⁶² WBG and Fawcett Society 2018 Report. See also Fahy, N. et al. (2017) How will Brexit affect health and health services in the UK? Evaluating three possible scenarios. *The Lancet* (<http://bit.ly/2EZbl0s>)

²⁶³ <https://www.rcn.org.uk/news-and-events/news/safe-staffing-legislation-to-avoid-patient-safety-crisis>

²⁶⁴ <https://blogs.bmj.com/bmjopen/2017/11/15/health-and-social-care-spending-cuts-linked-to-120000-excess-deaths-in-england/>

²⁶⁵ <https://www.independent.co.uk/news/world/americas/us-politics/nhs-cuts-excess-deaths-30000-study-research-royal-society-medicine-london-school-hygiene-martin-a7585001.html>

²⁶⁶ <https://www.standard.co.uk/news/uk/winter-deaths-hit-highest-level-in-more-than-40-years-with-50100-across-england-and-wales-a4004521.html>

²⁶⁷ <https://www.jacobinmag.com/2019/04/britain-life-expectancy-austerity-conservative-party-tories>

²⁶⁸ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/831199/20190802_Latest_Yellowhammer_Planning_assumptions_CD.L.pdf

²⁶⁹ <https://www.independent.co.uk/voices/brexit-vote-theresa-may-no-deal-eu-crash-out-women-sexism-feminism-a8753881.html>

The Socio-economic Impact of Brexit on Women as Carers

As NHS services become increasingly difficult to access, waiting times increase and care standards fall, there will likely be an increased pressure on the social care sector to make up the shortfall in healthcare services. However, as social care needs rise at the same time as staff recruitment and retention in the sector falls, the burden of care work will most likely fall upon women.

The Department of Health is forecasting a severe shortage in carers for children and the elderly over the next five years due to a predicted (and ongoing) fall in EU migrant workers in the UK. In 2017 migrant workers made up nearly one in five paid carers, 80% of which were from the EEA²⁷⁰. Studies show that 400,000 care workers may be lost by 2026 largely due to the increasing departure of EU nationals²⁷¹, with some predicting a shortfall of up to one million care workers by 2037 if EU migration is severely restricted following Brexit (Independent Age and ILC 2016)²⁷². This increase in staff shortages comes at a time when social care demand is at an all-time high and is continuing to rise²⁷³. The Government's Yellowhammer paper also stated that "an increase in inflation following EU exit would significantly impact adult social care providers due to increasing staff and supply costs, and may lead to provider failure."²⁷⁴

Impact on Paid and Unpaid Female Carers

The primary effect of health and social care pressures will be increased stressors on the female-majority carer workforce and a push for women to shift from paid employment to unpaid care work. 80% of all workers in social care are women²⁷⁵, with an even higher proportion of women working in adult social care²⁷⁶. Women make up 73% of recipients of Carer's Allowances²⁷⁷, and 60% of those who spend over 50 hours per week doing unpaid care work²⁷⁸. They are also more likely to be sandwich carers (caring for both elderly relatives and children) and are four times as likely to give up paid employment in order to provide unpaid care²⁷⁹.

The residence care services and social work services employs 1.37 million women (80% of the total workforce). This sector, like the health and social care sector more widely, will likely continue to see a fall in EU workers during and after Brexit. Whilst there may be a short-term increase in demand for UK women's labour in this sector, analyses of the overall effects emphasises that this will be heavily outweighed by accompanying and long-term negative effects.

Women will be forced to mitigate the costs of Brexit on health and socialcare by supplementing or even replacing key services and support for their families and relatives. This shift towards familial rather than

²⁷⁰ Hozic and True 2017.

²⁷¹ <https://www.ippr.org/research/publications/fair-care>

²⁷² <https://www.independentage.org/policy-and-research/research-reports/brexit-and-future-of-migrants-social-care-workforce>

²⁷³ <https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/healthcaresystem/articles/demandforadultsocialcareacrosscountiesandunitaryauthoritiesinengland/2018-12-18>;

https://www.ifs.org.uk/uploads/publications/comms/R143_Chapter3.pdf

²⁷⁴ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/831199/20190802_Latest_Yellowhammer_Planning_assumptions_CDL.pdf

²⁷⁵ ONS 2017 Labour force survey. Available at: www.ons.gov.uk. See also: WBG and Fawcett Society 2018 Report <https://wbg.org.uk/wp-content/uploads/2018/03/Economic-Impact-of-Brexit-on-women-briefing-FINAL-1.pdf>

²⁷⁶ <http://www.commissiononcare.org/wp-content/uploads/2016/10/Web-Care-Commission-Towards-a-new-deal-for-care-and-carers-v1.0.pdf>

²⁷⁷

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/220151/eia-dla-reform-wr2011.pdf

²⁷⁸ NHS Information Centre for Health and Social Care (2010) Survey of Carers in Households 2009/10

²⁷⁹ Carers UK (2000) It Could Be You and Carers UK (2014) Caring & Family Finances Inquiry UK Report

state responsibility for social care will force women out of paid employment, increase female and family poverty, diminish women's economic empowerment, reduce women's career opportunities due to employment gaps, widen the gender pay and pension gaps, and increase time poverty as women struggle to balance the economic and social demands of Brexit on families. Academics have highlighted the dependence on migrant and women workers as invisible providers of critical care work. As Professors Hozic and True explicate, "[i]t is only by keeping women's labour invisible – particularly in the globalized chains of care economies – that the world without immigrants might have appeared feasible to [Brexit] voters in the United Kingdom"²⁸⁰. The forfeiting of the rights and interests of women, migrants, and socio-economically disadvantaged groups, and the expectation that they will bear the brunt of Brexit costs whilst having their voices silenced, has been deeply and persistently evident throughout the Brexit process.

The Department of Health has corroborated these concerns regarding the impact of Brexit on female workers and carers, stating that social care shortages represent a "wider risk to labour market participation", and that "[i]f we fail to meet social care needs adequately we are likely to see a decrease in labour market participation levels, especially among women, as greater numbers undertake informal care"²⁸¹. Recent analysis also suggests that women face £315 million in lost earnings as a result of having to replace paid employment with unpaid care work due to the impact of Brexit on the social care sector²⁸², further entrenching female poverty and widening the gender wealth gap in the UK.

The impact of Brexit on social care will further affect women as EU laws protecting unpaid carer rights are placed under threat and as women are also often elderly and disabled recipients of social care themselves. In relation to the former, EU law prohibits discrimination against workers based on their role as carers or relationship to a disabled person (Equality Directive 2000/43/EC & *Coleman v Attridge Law*, 2008 ECJ judgment). This law particularly protects unpaid carers, including over 3 million women who make up the majority of unpaid carers. In relation to the latter, it is important to note that women will also be affected by reduced health and social care funding and staff shortages as *users* of social care, in particular as disabled and elderly users. Women are more likely to experience a disability over their lifetime and make up a majority of over 65s, groups which are both often dependent upon some degree of social care.

Childcare

In addition to caring for sick, disabled, and elderly relatives and dependents, women may also be further burdened with providing increased childcare work. In England, 80% of families with children use some form of early years care, equating to 4.4 million families²⁸³.

Like the social care sector more generally, childcare provisions will be affected by a widening recruitment gap as a result of falling numbers of EU staff. The number of European au pairs applying to work in the UK dropped by 75% in the two years immediately following the referendum vote²⁸⁴, affecting individual families on a large scale. Brexit is also effecting nursery staff, with 17% of EU nursery staff concerned about the impact of Brexit on their employment in the UK, and one quarter of nurseries dependent on EU staff²⁸⁵. As a majority of primary childcare providers, staff shortages mean that many women will be forced to take on extra childcare duties, resulting in either an increase of time poverty, a reduction of paid hours (and with it future wages and career opportunities), or even a partial or complete withdrawal from paid

²⁸⁰ Hozic, A. and True, J. 2017. 'Brexit as a Scandal: Gender and Global Trumpism'. *Review of International Political Economy*. 24:2

²⁸¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/693468/Department_of_Health.pdf

²⁸² <https://www.independent.co.uk/voices/brexit-social-care-aging-population-childcare-women-unpaid-labour-a8605206.html>

²⁸³ *ibid*

²⁸⁴ <https://www.theguardian.com/money/2018/jun/09/au-pair-shortage-prompts-crisis-for-families>

²⁸⁵ http://www.ndna.org.uk/NDNA/News/Press_releases/2018/Government_early_years_policy_under_threat.aspx

employment in order to provide unpaid childcare within their own families. The sector's increasing reliance on unpaid (primarily female) staff to supplement staffing shortages²⁸⁶ means that as EU staff levels decrease, more women will be needed to fill in the gaps for nurseries and receptions.

Women working within the childcare sector will also be affected, as staff shortages are likely to produce increased workloads and EU staff will be affected by precarious immigration status as a result of the informal, low-paid, and often part-time nature of their work. Early years childcare is a particularly female-dominated profession, with 97% of pre-primary education staff being women²⁸⁷.

The Professional Association for Childcare and Early Years has also raised concerns that the Government's focus on Brexit will 'slow down' the development of policies and strategies benefitting children and families, such as the overdue Childcare Workforce Strategy and the Schools Funding Formula²⁸⁸. Delaying and deprioritising key improvements to childcare in the UK will have an impact on the level of access and quality of care families and children receive.

²⁸⁶ https://epi.org.uk/publications-and-research/early-years-workforce_analysis/

²⁸⁷ *ibid*

²⁸⁸ <https://www.pacey.org.uk/news-and-views/pacey-blog/2016/june-2016/brexit-%E2%80%93-does-it-matter-for-early-years/>

3. *Where are the Women?* – The Representation of Women’s Voices and Gendered Perspectives within Brexit

Women’s voices and issues have been systematically excluded from all facets of Brexit, from the referendum campaign to the negotiating table. This report argues that Brexit has been a deeply male-centric affair, that women and gender have been marginalized from public and political spaces and processes of Brexit, and that this erasure has contributed towards the formation of a gender-blind Brexit. The prevalence of male-dominated discourses and perspectives is demonstrated consistently throughout the Brexit campaign and process, from assumptions about voters to gender bias in media reporting to the near all-male Brexit negotiating team and ministers. This exclusion has been well-documented by women’s organizations and campaigners, yet has nevertheless persisted throughout the past three years.

) Women have been consistently under represented in media coverage of Brexit, which has been dominated by white male voices. During the referendum campaign, men took up 85% of press coverage, as well as 73% of speaking time for TV coverage and 92% of press quotations. Men also made up 93% of media appearance on Brexit among the top-20-figures, with 70% going to four male conservative figures and Nigel Farage.

) There is a small, but persistent gender gap in terms of the referendum vote, Brexit opinions and outcome preferences between men and women: women voted 51% in favour of remain (45% for men); twice as many young men voted leave than young women; and women prefer second referendum, remain, and single market deal options more than men, who prefer a no-deal outcome 44% more than women.

) The EU referendum campaign failed to engage with women’s interests and equality issues, with only 6% and 2% of Remain and Leave campaign coverage discussing equality policies, respectively. Campaign and policy material published by key Leave organizations was particularly absent of these issues, with only 7 mentions of women in nearly 400 pages of material.

) Brexit has been largely expressed through masculine language and male voices. Producers of Brexit campaign narratives are predominantly male, with 77% and 98% of the Leave Means Leave and Vote Leave board membership being male.

) Female politicians and journalists who speak out on Brexit have seen a sharp increase in online and in-person abuse, including death and rape threats. Growing misogynistic and anti-feminist sentiments and language have accompanied the Brexit campaign and process, as well as the 2019 EU election campaign. Women’s voices have not only been excluded, but threatened and intimidated into silence within a male-dominated Brexit campaign and process.

) Whilst remaining marginalised within Brexit debates, women have responded with a sharp rise in WEP party membership and increased activities and support for women’s campaigns on Brexit, from both sides of the debate

) Female politicians have been under represented in parliamentary debates on Brexit, with male MPs taking up 87% of speaking time during debates.

- J The issue of women and Brexit has been almost completely absent from these debates, with approximately 3 hours spent across all parliamentary discussion (mostly key interventions by female politicians), against 500 hours of formal Brexit debates. Theresa May has never discussed the issue in parliament and there has been no formal debate of how Brexit will effect over half the population.
- J Women have been systemically excluded from key positions of influence and decision-making power. Female politicians are chronically under represented in influential political groups (19.5% ERG; 5.9% BDG); Brexit ministers (0%); Brexit negotiators (11% in 2017; 25% in 2018); and ministers of departments responsible for Brexit (11%).
- J There is a disproportionately high number of men with regressive views on gender equality within key Brexit decision-making positions.
- J Whilst women have grown in political prominence over the Brexit period (notably Theresa May), they face a glass cliff, whereby discrimination persists and their position is dependent upon them managing a largely male-manufactured crisis without long-term power gain.

a. Representing Women within the Brexit Campaign

This section will explore the extent to which women have been systematically under-represented through the pre and post-referendum Brexit campaign, from TV and press appearances and coverage, to the nearly all-male boards of pro-Leave campaign organizations, to the 97% of campaign material without discussion of equality policies, to the male-dominated language and threats against female political and media figures speaking out on Brexit. Whilst women-led campaigns, parties and groups are fighting to get women's voices heard on Brexit, the gender imbalance within the Brexit campaign is still going strong.

The Representation of Women in the Media

A Loughborough University study on the gender balance in EU referendum coverage found that throughout the 6-week campaign period there was a consistent “dominance of male participants in TV and press coverage”²⁸⁹, with 85% of overall press coverage going to men. Women's prominence in TV coverage of Brexit averaged at 24% (v 76% men), with the final week before the vote dropping to a mere 16%. Press coverage of Brexit featured an average of 13% women (v 87% men), spanning between 8-23% across the period. The study also examined the percentage of quotation time granted based on gender. It found that women only made up 27% of speaking time on TV coverage of Brexit, whilst women took up a mere 8% of press quotations on Brexit.

Based on further analysis from Loughborough on the most prominent 20 figures in the media on Brexit during the 6-week campaign period, it is clear that women were even more acutely excluded from media prominence at the higher level. Four male conservative MPs and Nigel Farage took up 70% of top-20-figures' appearances. PM David Cameron and Boris Johnson MP took up 25.5% and 20% respectively,

²⁸⁹ <https://blog.lboro.ac.uk/crcc/eu-referendum/gender-balance-eu-referendum-coverage/>

whilst the most prominent female figure, Priti Patel, took up a mere 1.7% of appearances. Overall, men took up 92.7% of media appearances in the top twenty, leaving just 7.3% for women²⁹⁰.

There are strong suggestions that the acute gender imbalance in Brexit media coverage has not improved over the past 3 years. The campaign group, Women4PV, found that this bias is visible in recent TV coverage (Dec 2018-March 2019), where men have dominated TV discussions and debates, with 71% of guests of the Andrew Marr Show and 60% of Peston on Sunday guests being male²⁹¹.

The persistence of male-only voice within Brexit coverage has attracted criticism from various female political figures. Ex-leader of the Green party Caroline Lucas MP called for a “temporary suspension of male ex-politicians taking to the airwaves on Brexit”²⁹² and the need for “voice that are not just male, stale and pale”²⁹³.

It should also be noted that the absence of female experts from media debates and discussions on the EU and Brexit during the referendum campaign was not related to an issue with supply, but rather one of demand. Six weeks before the referendum vote, at the very beginning of the campaign, Professors Roberta Guerrina, Toni Haastrup and Katharine Wright published a list of 69 female experts on the EU and Brexit in order to address the persistent lack of women experts represented in the media. The Brussels Binder is another resource which illustrates the prevalence of women experts on European and EU issues, with over 1000 female experts listed, and which seeks to address the gender imbalance in media representation of experts²⁹⁴. It is therefore particularly disappointing that despite these efforts, and the considerable number of female experts on the EU and Brexit issues, media coverage of the referendum campaign remained decidedly male.

The Gender Gap in Voting patterns and Opinion Polls

Whilst the gender voting gap was relatively small in the 2016 referendum, it is worth noting that a small majority (51%) of women voted to remain in the EU (meaning that around 300,000 more women backed remain than leave)²⁹⁵. This is in contrast to a slightly clearer majority among men, who voted 55% in favour of Leave²⁹⁶. Voter turnout was also slightly lower among women²⁹⁷.

The gender gap within voting patterns persists across age demographics, with more women backing remain than men in all age groups except the over 65s. The remain vote was particularly strong among young women, with an overwhelming 80% of 18-24 year old women voting to stay in the EU. The youth vote was also the most divided along gender lines, with 61% of 18-24 year old men backing remain, meaning there

²⁹⁰ Figures calculated from Loughborough University data on the “Top 20 by frequency of appearance” during media coverage of Brexit. <https://blog.lboro.ac.uk/crc/eu-referendum/media-coverage-of-the-eu-referendum-report-3/>

²⁹¹ <http://women4pv.org/2019/03/08/press-release-on-international-womens-day-women-continue-to-be-underrepresented-in-the-brexit-debate/>

²⁹² <https://www.independent.co.uk/news/uk/politics/final-say-caroline-lucas-brexit-deal-vote-petition-referendum-people-a8466176.html>

²⁹³ <https://www.independent.co.uk/voices/brexit-vote-second-referendum-male-female-voices-caroline-lucas-jeremy-corbyn-theresa-may-a8465966.html>

²⁹⁴ <https://brusselsbinder.org/>

²⁹⁵ <https://www.ipsos.com/ipsos-mori/en-uk/how-britain-voted-2016-eu-referendum>; See also: https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/oxmidrr5wh/EUFinalCall_Reweighted.pdf;

²⁹⁶ *ibid*

²⁹⁷ <https://www.ipsos.com/ipsos-mori/en-uk/how-britain-voted-2016-eu-referendum>

was a 19% gender voting gap among young people. In the youth vote for leave, men were twice as likely to vote Leave than women²⁹⁸.

After the referendum, polls suggest a small, but persistent gender gap in Brexit opinions and voting intentions²⁹⁹. Women are more likely to view Britain leaving the EU as the wrong decision, and men are twice as likely to view staying in the Customs Union and Single Market as a ‘very bad outcome’ than women. The gap is particularly wide on the issue of no-deal, with 33% of men viewing it as a ‘good outcome’ in comparison to just 24% of women (excluding Don’t Knows).

On a ‘People’s Vote’ (second/confirmatory referendum), 58% of women were in favour of holding a public vote on the future of Brexit, in contrast to 53% of men³⁰⁰. Similarly, women are more likely to view Britain remaining in the EU following a second referendum as a ‘good outcome’, with 58% of women supporting this outcome versus 53% of men³⁰¹. Voting intentions for a second referendum are very slightly divided, with 54% of women backing remain against 52% of men (excluding DKs)³⁰².

First preferential outcomes are also divided along gender lines, with women more likely to prefer to either remain or leave with a deal than men, and men more likely to prefer leaving without a deal than women. Overall, whilst remain is the most popular preferred option, and no-deal the second most popular among both men and women, the gap between these two options is 14 points higher for women than men.

Preferred Outcome (excluding don’t knows) ³⁰³ :	Overall	Women	Men
Second Referendum & Remain	43%	44%	41%
No-Deal Brexit	30%	25%	36%
Alternative Deal Brexit (UK inside the Customs Union and Single Market)	14%	15%	11%
Theresa May’s Deal	13%	15%	11%

Despite more women stating that things *were worse now* than they were 10 years ago than men in 2016, their response to the question of Brexit³⁰⁴, prior to and following referendum vote, has been more supportive of the EU and of the UK remaining within it than men. Women were also more likely to state that things *will be worse* for them in 10 years time than men. Much has been written regarding the view of male working-class voters viewing things as getting steadily worse being a key motivating factor in the decision to vote Leave in 2016. However, the fact that women were even more likely to perceive a state of decline, yet generally favour remain options more, indicates differing perceptions on the causes and solution to this decline. Further research into this knowledge gap would improve the representation of women and their interests within Brexit and the broader political process.

²⁹⁸ <https://www.statista.com/statistics/567922/distribution-of-eu-referendum-votes-by-age-and-gender-uk/>

²⁹⁹ https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/ojewuniikg/Internal_190401_BrexitTracker_s_w.pdf

³⁰⁰ March 2019, excluding ‘Don’t Knows’.

https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/26b2mrd7yn/PeoplesVote_March19th_Snap_Poll_final_updated_w.pdf

³⁰¹ https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/ojewuniikg/Internal_190401_BrexitTracker_s_w.pdf

³⁰² *ibid*

³⁰³ *ibid*

³⁰⁴ <https://www.populus.co.uk/poll/hope-not-hate-survey/>

Overall, claims that there is no gender gap among voters and between men and women's perceptions and priorities are largely inaccurate. Whilst the referendum gap is small, it is worth noting that if it was up to women, Brexit would not be taking place. Analyses and commentaries which discuss public intentions fail to take account of the gender differences in terms of Brexit outcome preferences and tend to focus on the motives and intentions of male voters. The failure to give equal weight to male and female voices and voter opinions in media coverage portrays issues relating to Brexit as non-gendered whilst deprioritising issues which disproportionately effect women and prioritising male perspectives on the Brexit process and its impact on the UK and its citizens. Whilst the gender gap in voting decisions and outcome preferences should not be overstated, it is critical that the different motives, interests and priorities of both men and women are considered in media coverage, political action and outcome negotiations in the Brexit process.

More recently, just 0.13% of the UK population voted in favour of the current Prime Minister in the Conservative Leadership contest 2019³⁰⁵. Out of the roughly 92,000 Conservative members who voted, around 70% are male, 97% white British and 40% aged over 65 (average age 57)– meaning that those choosing the new Prime Minister were disproportionately older, white, and male³⁰⁶. This group is also largely concentrated in Eastern and Southern regions of England, largely excluding Wales, Scotland and Northern Ireland, and are generally from the top income bracket, with 86% of member falling in the ABC1 social grade³⁰⁷. The Conservatives have the lowest level of female membership of any mainstream political party in the UK (excluding UKIP, whose membership gender gap is around 3% higher)³⁰⁸. Just 0.75% of their members are young women³⁰⁹ – the same group likely to be most affected by Brexit, most opposed to Brexit, and suffering the highest levels of stress due to Brexit. With young people, ethnic minorities, low-income households, those from Northern and devolved regions, and women expected to be hit hardest by Brexit, they also represent those with the least say over the leadership of the country at a critical juncture in the Brexit process.

Brexit Campaigns and Activism before and after the Referendum

Excluding Gender and Equality Issues from the Brexit Campaign

A Surrey University study found that gender equality issues were almost entirely absent from the referendum campaign. The Remain campaign, Britain Stronger in Europe, mentioned gendered equality policies in just 6.2% of its publications on Brexit, whilst Vote Leave covered this issue in just 2% of its documents (see table below)³¹⁰. Whilst the Remain campaign had a higher proportion of gender equality mentions, due to its footprint being a quarter that of the Leave Campaign (226 to 866 documents), it had a smaller overall output (14 to 17) of material which discussed gender equality and Brexit.

³⁰⁵ <https://www.newstatesman.com/politics/staggers/2019/07/just-013-cent-population-voted-boris-johnson>

³⁰⁶ <https://www.independent.co.uk/voices/tory-leadership-contest-members-white-old-male-boris-johnson-gove-hunt-raab-a8938126.html>

³⁰⁷ <https://metro.co.uk/2019/05/25/theresa-mays-replacement-will-chosen-100000-male-pale-voters-9690079/>

³⁰⁸ <https://inews.co.uk/news/politics/conservative-party-members-tory-women-gender-balance/>

³⁰⁹ <https://www.independent.co.uk/voices/tory-leadership-contest-members-white-old-male-boris-johnson-gove-hunt-raab-a8938126.html>

³¹⁰ http://www.era-comm.eu/oldoku/SNLLaw/14_Other_topics/118DV29_Guerrina_EN.pdf

Scoping the campaigns' footprint: What were the key themes?

Policy / Issue	Vote Leave			Vote Remain		
	Mentions	Ratio	% of mentions	Mentions	Ratio	% of mentions
All gender equality policies	17	17/866	1.96%	14	14/226	6.19%
All social policies	92	92/866	11.32%	70	70/226	30.97%
All mainstream/high salience	757	757/866	87.41%	142	142/226	62.83%

Examining various pro-leave campaign groups and political parties specifically provides further evidence that any discussion of women, gender or equality is persistently absent from material provided by such groups. Looking at three key pro-Brexit organizations (The *UK Independence Party*, the *Leave Means Leave* organization, and the *Vote Leave* campaign), throughout 398 pages (across 28 documents and over 150,000 words) of briefs, reports, manifestos, policy recommendations and other research produced by these groups, there are a total of **23 mentions** of the words 'women' (7), 'female' (7), 'gender' (2), and 'equality' (7).

These amounted to discussions of (1) women with poor spoken English as indicators of cultural segregation, FGM and 'honour' killings within the context of migration as a threat to women and equality (Leave Means Leave); (2) policy recommendations/pledges to repeal the 2010 Equality Act and to shut down the Equalities and Human Rights Commission and the Government Equalities Office (UKIP); (3) policy recommendations/pledges to scrap 'gender confusion ideologies' and LGBT inclusive education (UKIP); and (4) the minimum 5% tax on women's sanitary products (the 'tampon tax') based on the 2006 EU Directive on VAT³¹¹ (Vote Leave).

Issues relating to women's interests and gender equality were chronically absent from campaign discourses and materials discussing the implications and priorities of Brexit from both sides of the argument. Whilst there was some discussion of worker's rights, public services and social values, these were rarely discussed in relation to the disproportionate impact their decline would have for women as a result of Brexit. Mainstream discussions of issues such as trade, immigration and the economy excluded the ways in which women would be specifically effected by Brexit in relation to these issues. Considering the variety and depth of issues which Brexit would effect women either specifically or disproportionately, their omission from public debate and discourses surrounding the Referendum is significant and regrettable.

³¹¹ Note: in 2018, new EU VAT rules will allow the UK to stop taxing sanitary products were approved by the European Parliament, and in January 2019 the European Parliament called for Member States to scrap taxes on sanitary products

Brexit as a Male Language

Experts have argued that the Brexit campaign was couched in masculine language of power, protection, control, and fear³¹². Brexit, particularly the prospect of a no-deal, constitutes “a dangerous fantasy created by those who are nostalgic for a time when Britain ruled the waves and women were spoken but not heard” argues the W4PV campaigner Jenna Norman. This analysis is shared by academics, who argue that within the referendum campaign, “[m]asculine posturing of protection and its tremendous emotional appeal, manifest in ‘Take Back Control’ slogan and misogyny of ‘Trumpism’, have been made possible by [the] constant massaging of the publics’ fear.”³¹³. Recent academic research has further illustrated the ways in which the referendum campaign and Brexit discourses have been dominated by masculine tropes and language. Achilleos-Sarll and Martill of the University of Warwick highlighted the prevalence of gendered discursive tropes of militarism and business interests (i.e. the rhetoric of ‘deal-making’) within the Brexit debate³¹⁴.

The masculine tone of the referendum campaign is unsurprising considering the prominence of infighting male politicians leading the campaign and dominating the headlines, as well as the heavily male membership of pro-Leave campaign organizations. The two primary pro-Brexit campaign groups, *Leave Means Leave* and *Vote Leave*, are made up almost entirely of male board members. The *Leave Means Leave* Board includes one woman (2%) and 43 men (98%)³¹⁵. The *Vote Leave* board and campaign committee are slightly more balanced, although women still only make up 22.8% of members, with 8 women and 27 men (77%)³¹⁶. Even the official Remain Campaign group, *Britain Stronger in Europe* was slightly skewed towards male board members, with 7 women (44%) and 9 men (56%)³¹⁷, albeit 3 times more balanced than the Leave campaign on average.

Studies also suggest an anti-progressive, and specifically anti-feminist dimension to the pro-Brexit movement. Those who view feminism as a “force for ill” are 74% Leave voters (in comparison to 26% of remain voters), with 34% of all Leave voters sharing this view (compared to 11% of remain voters)³¹⁸. The disproportionate focus on Leave voters by politicians and political parties makes this statistic particularly worrying.

There has also been a sharp rise in the rate of online abuse against female politicians and journalists, including rape and death threats³¹⁹ which has been heavily linked to the Brexit process. Several female MPs have spoken out against this abuse, and have discussed the intrusive and intimidating impact these threats and abuse have had on their political and personal lives. These include being forced to make significant

³¹² Hozic and True 2017

³¹³ *ibid*

³¹⁴ Page 16. Achilleos-Sarll, C. and Martill, B. ‘Toxic Masculinity: Militarism, Deal-Making and the Performance of Brexit. In: Dustin, M., Ferreira, N. and Millns, S. *Gender and Queer Perspectives on Brexit*.

³¹⁵ The original page documenting the board members has been removed during the writing of this report. For a record of board membership, see instead articles discussing the gender balance on the Leave Means Leave Board at: <https://leftfootforward.org/2019/03/iwd-new-analysis-reveals-extent-of-womens-exclusion-from-brexit-debate/> Commentators have also noted that for every woman on the this board, there are 7 men named John.

³¹⁶ <http://www.voteleavetakecontrol.org/campaign.html> (Note: members of both the Vote Leave Board and the Campaign Committee Board have been included, with members of both boards counted just once.)

³¹⁷ <https://www.ft.com/content/184d7820-70aa-11e5-9b9e-690fdae72044>

³¹⁸ <https://lordashcroftpolls.com/wp-content/uploads/2016/06/III-vs-Good.jpg> ; See: <https://lordashcroftpolls.com/wp-content/uploads/2016/06/How-the-UK-voted-Full-tables-1.pdf>

³¹⁹ Whilst both male and female politicians and journalists have seen a rise in abuse and threats, these are disproportionately targeted towards female figures, who also suffer specifically from heightened threats of physical and sexual violence, as well as sexist and misogynistic abuse. See, for example: <https://www.theguardian.com/politics/2019/mar/05/death-threats-every-single-day-mps-on-effect-of-brexit-vote;> <https://www.independent.co.uk/voices/mps-abuse-online-anna-soubry-female-politicians-rape-threats-research-jo-cox-a8726796.html>

changes to their routines and behaviours, with female MPs, for example, being advised by police not to go jogging in their local park or drive their car, temporarily or permanently leaving their home, installing rape alarms in their homes, hiring body guards, and wearing body cameras to document abuse on their way to work³²⁰. In 2016, female MP Jo Cox, an outspoken feminist and remain campaigner, was shot and stabbed to death a week before the EU referendum in what was believed to be a Brexit-motivated attack. In 2017, police prevented the planned murder of Labour MP Rosie Cooper and detective constable Victoria Henderson by a member of a far-right organization, who claimed he wanted to “replicate” the murder of Jo Cox³²¹.

The recent EU Elections included candidates involved in misogynistic and sexist abuse of female public figures. In the Southwest region, two of UKIP’s primary candidates are running on a strong anti-political correctness and anti-feminist platform, one of whom gained media attention for tweeting at Labour MP Jess Phillips that he “wouldn’t even rape her” after she spoke about rape threats sent to her³²². He later responded to media questions about whether this was appropriate with “yes, 100%, deal with it”, called her a “massive bitch”, and later stated that he “might” rape her³²³. Within the context of rising nationalism and misogyny across Europe and the US, Brexit has enabled and driven a mass outpouring of sexist abuse against female politicians and public figures³²⁴. This is not only damaging to the mental and physical well-being of victims of these attacks, but also fuels an environment where women’s voices are drowned out, excluded, and intimidated into silence.

The prominence of masculine language and male voices on Brexit, as well as the high proportions of men in key positions of discursive influence within the referendum campaign have produced a highly gendered discourse on the interests and motives for leaving the EU. Coupled with the use of violent and sexist threats and abuse towards female figures speaking on Brexit in politics and the media, there has been a strong shift towards the expression and perception of Brexit through a male language. The myth of a gender-neutral Brexit is largely constituted by, and in turn produces, a heavily male-dominated sphere where women’s voices are not only silenced through exclusion and intimidation, but also denied through an assumption of male-as-default perceptions of Brexit narratives and language.

The Rise of Women’s Groups and Activism

Amidst the male-dominated campaign, it should also be noted that women have responded in terms of increased party-membership to the Women’s Equality Party and increased support for women’s pro-European and People’s Vote campaigns. Although these groups remain deeply marginalized from mainstream Brexit debates, it is highly encouraging to see organized groups of women fighting for their voice on an issue which will disproportionately affect them.

The rise of UKIP has been the subject of much media and academic attention, with explanations of its emergence as a key political player and huge growth in members and voters associated with the perceived neglect and silencing of white working class men and a growing dissatisfaction with immigration, multiculturalism, globalization and the political system. A parallel may be made in relation to the rise in support for the Women’s Equality Party as a response to the systemic exclusion of women and gender issues from the Brexit debate. In just one month immediately following the Brexit referendum, WEP membership

³²⁰ <https://www.thetimes.co.uk/article/brexit-abuse-forces-mps-to-move-house-sggsrg6gb>;
<https://inews.co.uk/news/politics/female-mps-abuse-forced-to-move-home-and-hire-bodyguards-after-being-targeted/>

³²¹ <https://www.bbc.com/news/uk-england-lancashire-48306380>

³²² <https://www.independent.co.uk/news/uk/politics/ukip-gerard-batten-rape-twitter-satire-carl-benjamin-jess-phillips-a8869256.html>

³²³ <https://www.indy100.com/article/carl-benjamin-jess-phillips-rape-ukip-controversy-sargon-akkad-8899271>

³²⁴ <https://blogs.lse.ac.uk/politicsandpolicy/politics-as-usual-rising-violence-against-female-politicians-threatens-democracy-itself/>

shot up 120% from 25,000 to 55,000³²⁵. In comparison, UKIP's membership is currently at around 23,000³²⁶ and peaked in mid-2015 at 46,000³²⁷. The rise of the WEP post-referendum indicates a demand for the inclusion of women's voices, perspectives and interests within Brexit politics. The work currently being done by the WEP on women and Brexit, without taking a Leave or Remain side, provides much needed information, promotion of issues and advocacy work on the gendered impact of Brexit.

Several women's campaign groups, from across the Brexit spectrum, have also established themselves within the debate, despite remaining deeply marginalised from mainstream attention. These groups include (twitter followers in parenthesis): Bitches Against Brexit (14.4k); Women for Europe (5k); Women for a People's Vote (5k); Ladies for Leave (3.4k); Women for the EU (354); Feminists for Europe (244); and Women for Brexit (213).

There have been suggestions of a Leave-Remain division on the question of whether or not Brexit is a gendered issue with specific consequences for women³²⁸. This appears to correspond to the different levels of female-oriented activism and gendered perspectives produced by Remain or Leave affiliated individuals and groups. For the former, Women4PV and WomenforEurope have been more active in their campaigns compared to their opposing equivalent, Ladies4Leave.

There is unfortunately a significant amount of resistance to these groups from both sides of the Leave-Remain debate. These groups are particularly active on twitter, where they are often subjected to misogynistic and patronising comments and abuse. The primary criticism of these groups is that Brexit is not a gendered issue. The author hopes that this report will contribute to the growing body of evidence that seeks to challenge the myth of a gender-neutral Brexit.

b. Representation of Women within the Brexit Process

This section addresses the chronic exclusion of women from key positions of political influence and decision-making within the Brexit process. Women have been persistently under-represented within parliamentary debates on Brexit, ministerial and negotiation positions on Brexit, and membership of influential political groups (i.e. the ERG and BDG). Even considering the gender imbalance of the UK parliament (32%) and cabinet (22%), female politicians are being continually sidelined and excluded from positions of power and influence in relation to the Brexit process. Where women have been present, most notably in the case of former Prime Minister Theresa May, they face a glass cliff, where their power is temporary and insecure, and where their position is predicated on their ability to 'clean up' the political fallout from the UK's decision to leave the EU. The low levels of female representation and decision-making power (and the over-representation of regressively-minded male figures in influential positions) has hugely contributed towards the deprioritisation of women's voices and interests within the Brexit process, the absence of safeguards and protections for women post-Brexit, and the disproportionate impact Brexit is expected to have for women's rights, prosperity and equality.

³²⁵ Walker, S. (2016) 'Theresa May: female but not feminist', Politico, 13 July; Available at:

<http://www.politico.eu/article/theresa-may-female-but-not-feminist-conservative-brexit-womens-equality-party/>

³²⁶ As of April 2018: https://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN05125#_ftn2

³²⁷ <https://www.theguardian.com/politics/2018/aug/02/ukip-membership-surges-15-per-cent-in-a-month>

³²⁸ <http://news.trust.org/item/20190405105810-fxe25/>

Representation of Women within Parliamentary Debates on Brexit

In February 2019 Baroness Bull spoke in the House of Lords to address parliamentary silence on the subject of women and Brexit. She noted that over 7 days of Brexit debates, “Lords have collectively contributed some 280,000 words ... [of which] just 80 cover[ed] the specific effects of Brexit on women”, and that the word ‘women’ had itself been mentioned a mere 13 times within these debates³²⁹.

In the House of Commons, debates on Brexit have been significantly weighted towards male speakers. Since December 2018, male MPs have spoken for 53 hours time and women a mere 20 hours during these debates, equating to 72% male and just 28% female MP speaking time (including Theresa May)³³⁰. This is despite the rise of several female MPs into the debate and the fact that these figures include then Prime Minister Theresa May. Even if we consider the gender imbalance of the UK parliament (where women make up only 32% of MPs), female MPs are given less speaking time each than their male colleagues on the subject of Brexit. That is, if we allocated time evenly across MPs, accounting for the gender disparity, male MPs are granted more time at the cost of female MPs, who are only granted 87% of their speaking time.

In addition to the under-representation of female MPs, the subject of women and Brexit has also been largely excluded from parliamentary debates on Brexit. Women and Brexit have been the subject of two House of Lords questions for debate, yet took up only 6 and 7 minutes each. Time spent discussing women in the Brexit context (directly and indirectly), across both House of Commons and House of Lords debates and discussion, totals approximately 3 hours³³¹. In contrast, formal Brexit debates in the House of Commons alone surpassed 500 hours in March 2019³³². It should also be noted that Prime Minister Theresa May has discussed the issue of women and Brexit, according to Hansard records, for a total of 0 minutes over her three year premiership (this is also true for current Prime Minister Boris Johnson).

The over-representation of men in parliament, and further over-representation of male voices on parliamentary Brexit debates has produced a pronounced male-dominated voice on Brexit from the UK parliament. Coupled with the near complete absence of any discussion of how Brexit will disproportionately affect over half the UK population within these debates, Parliament has failed to provide a balance voice or views on Brexit. This trend unfortunately continues throughout both the political, media and public spheres.

Representation of Women within Decision-making Positions in the Brexit Process

Perhaps the largest gender imbalance comes from women’s role in key decision-making processes relating to Brexit. It is not only male voices which have dominated the Brexit process, but male decision making, political influence and actions. Despite the UK having a female Prime Minister leading the Brexit process until July 2019, Brexit ministers, negotiators, influential figures and political group members are almost entirely male. Across these groups and positions, figures range between 0% and 25% in terms of female representation (despite making up 32% of MPs and 51% of the population). The exclusion of women from key positions of influence and decision-making entrenches an already male-dominated process and extinguishes efforts to mainstream gender issues and women’s rights into the Brexit process. In fact, the predominance of male decision-makers with regressive views on gender equality exceeds the total number of women in equivalent positions. The deep-seated gender-blindness of the Brexit process and the

³²⁹ Baroness Bull (CB) speaking at the House of Lords. February 2019. Available at: <http://bit.ly/2VFcxdl>

³³⁰ <https://twitter.com/women4pv?lang=en>

³³¹ Own calculations, data collected from Hansard

³³² <https://www.rte.ie/news/brexit/2019/0402/1040261-brexit-numbers/>

Government's refusal to consider or mitigate the disproportionate effects of Brexit on women is certainly in large part due to the systemic exclusion of women from key Brexit decision-making positions.

Representation of Women within Pro-Brexit Parliamentary Groups

The two primary pro-Brexit 'tribes' within parliament, the European Research Group and the Brexit Delivery Group, are heavily imbalanced towards male MPs: only 19.5% of the ERG are female MPs (18 women and 74 men out of a total of 92 MPs), whilst a mere 5.9% of the BDG are female MPs (3 women and 48 men out of 51 total)³³³. Campaigners have noted the overlap between regressive views and voting patterns on gender equality and membership of pro-Brexit parliamentary groups, with W4PV campaigner Jenna Norman noting that "of the seven MPs who voted against the bill for companies to report on equal pay in 2014, four of them were members of the European Research Group"³³⁴. The inflated influence of these heavily male-dominated groups within the Brexit process (especially the ERG) not only further skews the gender imbalance of political influence and decision-making power within parliament, it also reinforces Brexit narratives centred upon male posturing for political power, where the media focuses on the personal rivalries of the likes of Rees-Mogg, Johnson, Gove, Fox, Raab, et al and their various manoeuvres towards the position of Prime Minister. It is also unlikely, given the disproportionately regressive views of members of these groups, that their increased prominence and political influence will increase the chances of women's rights and gender equity being taken seriously within parliamentary discussions and actions.

Representation of Women as Brexit Ministers and Negotiators

Despite the presence of a female Prime Minister for a majority of the Brexit process, women have been greatly excluded from key decision-making positions in Brexit, including from Brexit negotiating and ministerial positions. All three Secretaries of State for Exiting the European Union have been men, all five Brexit ministers are men, eight of the nine 2017 UK negotiators for Brexit³³⁵, and three of the four 2018 negotiators³³⁶ have been men. Across the three government departments responsible for negotiating Brexit (DexEU, DIT, FCO), only 2 of the 15 ministers are women (13%). During Brexit negotiations with the EU in 2017, the UK negotiating team was made up of one woman (Catherine Webb, Director of Market Access and Budget at DexEU) and eight men, meaning that only 11% of the senior civil service negotiating team is female³³⁷. Overall, just 10.5% of all ministerial and negotiator positions on Brexit were filled by women³³⁸. Even considering the gender imbalance of parliament (32% women) and the cabinet (22% women), this exclusion of women from key decision-making positions on Brexit specifically is alarming. More recently, the cross-party talks between the Conservative and Labour parties have continued this trend. Labour MP Rebecca Long-Bailey, who has been attending the talks, noted that she is one of only three women involved in the talks, out of around 18 total participants³³⁹.

More recently, there has been severe criticism of the so-called "all-male Brexit war cabinet" which includes an all-male team of six heavily pro-Brexit senior cabinet members. Despite consistent calls for greater representation of women's voices and interest in key Brexit decision-making processes, the new Prime

³³³ <https://ig.ft.com/brexit-tory-tribes/>

³³⁴ <https://inews.co.uk/opinion/comment/brexit-deal-theresa-may-meaningful-vote-gender-equality/>

³³⁵ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/620076/Biographies_of_the_Civil_Service_representatives_for_the_negotiations_with_the_EU_.pdf

³³⁶ <https://www.bbc.com/news/world-europe-39236683>

³³⁷ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/620076/Biographies_of_the_Civil_Service_representatives_for_the_negotiations_with_the_EU_.pdf

³³⁸ This figure includes 2/15 Ministers in Departments responsible for Brexit, 1/9 2017 Brexit negotiators, and 1/4 2018 Brexit negotiators. If this figure were to include DExEU ministers and 2017/2018 negotiators only, the proportion of women would rise by 0.5% to a total of 11%.

³³⁹ <https://graziadaily.co.uk/life/real-life/rebecca-long-bailey-brexit-climate-change/>

Minister has seemingly responded by pushing women completely out of the most important Brexit decision-making circle³⁴⁰. The proportion of women in Cabinet has also dropped from 27% under May to 24% under Johnson³⁴¹. The UK Brexit negotiating team currently consists of one male representative David Frost³⁴².

The Gender Perspectives of Key Brexit Figures in Government

It should also be noted that the individual and professional perspectives on gender equality and women's rights by many of the male politicians in these key positions may be characterised as regressive at best, and remarkably misogynistic at worst. The views of former Brexit Minister and negotiator Dominic Raab³⁴³, as well as key Brexit figures like Jacob Rees-Mogg and the current Prime Minister Boris Johnson are of particular note here³⁴⁴. Experts have suggested that as “a vocal critic of feminist politics, equality and socio-economic rights, Raab is thus unlikely to mainstream gender approaches and impact assessments in the negotiation process”³⁴⁵. It should also be noted that every single Brexit Minister (former and current) has consistently voted against proposals aimed at progressing gender equality and protecting women's rights³⁴⁶. The central positions of these figures within Brexit developments and as key influencers in Brexit politics and priorities, as well as the anti-feminist and regressive views of these (and other) politicians, should further motivate efforts to secure robust safeguards and guarantees regarding women's rights and gender equality standards post-Brexit.

Theresa May and the Glass Cliff

While the referendum campaign was dominated by male figures, the post-Referendum period has seen the rise of several female political figures into the Brexit debate, including Yvette Cooper, Anna Soubry, Arlene Foster and, most significantly, Theresa May. Yet the increased prominence of women in Brexit politics (albeit still hugely underrepresented) has been described as indicative of a pattern of power cycles where women achieve temporary power and influence as ‘cleaners’ and ‘fixers’ during periods of political hardship and turmoil:

“the paradox of men's dominance of the Brexit campaign and women's rise in the political crisis that ensued after the referendum vote. Women have become visible actors in Brexit ostensibly to “clean up” the mess left by their male counterparts”³⁴⁷.

In particular, Theresa May's premiership has been variously cited as a perfect example of the ‘glass cliff’³⁴⁸, whereby “a disproportionate number of women and minorities reach positions of leadership at precarious or risky times rather than times of stability, growth and the like”³⁴⁹, and where “women leaders gain leadership

³⁴⁰ https://www.huffingtonpost.co.uk/entry/boris-johnson-brexit-war-cabinet-all-male_uk_5d3f0035e4b01d8c977edda0

³⁴¹ <https://www.channel4.com/news/factcheck/factcheck-how-representative-is-johnsons-first-cabinet>

³⁴² Following the shrinking of the UK's negotiating team by three quarters to approximately 25 civil services under David Frost, there is no data on the gender balance of the UK's negotiating team.

³⁴³ <https://www.theguardian.com/commentisfree/2018/jul/11/dominic-raab-ideologue-rights-eu-brexit>

³⁴⁴ For example: <https://www.newstatesman.com/politics/feminism/2017/10/stop-joking-about-jacob-rees-mogg-his-views-abortion-and-rape-are-hurtful> ; <https://www.theguardian.com/commentisfree/2017/sep/06/jacob-rees-mogg-isnt-old-fashioned-thoroughly-modern-bigot-suzanne-moore>

³⁴⁵ <https://www.equallyours.org.uk/edf-gendering-brexit-blog-series-dont-worry-womens-rights-and-equality-are-already-embedded-within-our-legal-framework/>

³⁴⁶ This information is easily accessible at www.TheyWorkForYou.com under each minister's voting record on ‘equality’ matters.

³⁴⁷ Guerrina and Masselot 2018

³⁴⁸ <https://globalnews.ca/news/4754906/theresa-may-glass-cliff-crisis-leadership/>

³⁴⁹ Hozic and True 2017. See also True, J. 2014. ‘The global governance of gender’, in P. Nicola and P. Anthony (eds) *The Handbook of the International Political Economy of Governance*. Edward Elgar Press, pp. 329–43.

opportunities in situations where they may be primed for failure”³⁵⁰. This phenomenon also extends to the UK’s only previous female Prime Minister Margaret Thatcher, who came to power immediately following the Winter of Discontent and at a time of political and economic crisis and stagnation.

A frequent counter to claims that women and gender have been neglected in Brexit is simply the fact that the (now former) Prime Minister is a woman. Yet, not only does the fact remain (as this report hopes to illustrate) that women nevertheless continue to be vastly excluded from Brexit activities and coverage, but the Prime Minister has herself been subjected to gendered discrimination. Press coverage of a critical meeting between Nicola Sturgeon and Theresa May on Brexit was reduced to sexist comparisons of their legs, for the Daily Mail’s ‘Never Mind Brexit, Who Won Legs-it?’ front-page³⁵¹. She has faced criticisms for her lack of emotion and children, adverts depicting sexualised images of her³⁵², and received 3 times as many comments about her appearance as her male opponent, Jeremy Corbyn³⁵³. Neither has the then Prime Minister made any effort to consider or mitigate the adverse effects of Brexit on women. As noted previously, May has not mentioned the issue of women and Brexit once in Parliament, according to Hansard records.

The exclusion of women from key positions of influence and decision-making throughout the Brexit process makes the absence of gendered perspectives unsurprising. The near-total omission of women from the Withdrawal Agreement³⁵⁴ (just 4 mentions in 585 pages³⁵⁵) is likely in part due to the gender imbalance in negotiators who drafted the agreement, and the overall exclusion of women and inclusion of regressively-minded men within key Brexit positions. Whilst the gender gap among voting choices and Brexit preferences is often relatively slim, there is nonetheless a clear preference for remain and soft-Brexit choices for women over men, who tend to favour no-deal and hard-Brexit options more, an insight which has been omitted from media analyses of public opinion. The chronic exclusion of women’s voices, opinions, and interests through the campaign, media coverage, negotiations, parliamentary debates, and Brexit process has been deep-seated throughout the past 3 years. The subject of Brexit’s impact on women has been an extremely marginalized issue, receiving little media attention and almost no political engagement. It is deeply concerning that 51% of the UK population have not been properly represented in a process which will disproportionately affect them, and that their exclusion has in turn exacerbated the imbalanced impact Brexit will have on women’s rights and gender equality in the UK.

³⁵⁰ Hozic and True 2017

³⁵¹ <https://www.independent.co.uk/news/uk/home-news/daily-mail-front-page-legs-it-theresa-may-nicola-sturgeon-sexism-compare-sarah-uk-prime-minister-a7653556.html>

³⁵² <https://www.good.is/articles/sexist-theresa-may-ad>

³⁵³ <https://www.gq-magazine.co.uk/article/sexism-in-politics-uk>

³⁵⁴ <https://www.fawcettsociety.org.uk/Handlers/Download.ashx?IDMF=294c23f5-95f4-4f00-a8ce-eb52e7606c6c>

³⁵⁵ See Annex 4(1). Available at: https://ec.europa.eu/commission/sites/beta-political/files/draft_withdrawal_agreement_0.pdf

4. The Impact of Brexit on Women's Organizations and Vulnerable Groups

- J The loss of the WNC in 2010 and ongoing defunding means that women's lobbying & advocacy power has already been weakened in the UK. Brexit risks further weakening women's networks and influence by cutting ties between UK and European women's organizations, which would reduce political influence, lobbying power, network and collaboration strength, and limit access to EU funding streams.
- J The EU provides billions in funding for social and gender equality projects, and millions specifically for women's organizations and support services. Post-Brexit defunding for groups & services already reaching breaking point from austerity would deny vital support for 'life-changing, life-saving' services for thousands of vulnerable women.
- J UK replacement funding is precarious and preparations disorganised: the UK Shared Prosperity Fund has still not released details of the amount, allocation, length, or priorities of the fund - leaving women's groups and services in limbo, and risks severe defunding (especially for specialist services). A Government report has acknowledged that funding may decrease as a direct result of Brexit, despite their public rhetoric suggesting otherwise.

- J Brexit poses several risks to female victims of sexual and domestic violence at a time when women's support services are chronically underfunded, the UK continues to indefinitely delay ratifying the Istanbul Convention, rates of female-targeted violence in the UK are among the worst in Europe, and violence against women is on the rise.
- J Victims will no longer have access to cross-border protections like EPOs (Gov rejected amendments to keep them), vital EU funding for support services is under threat, domestic violence is expected to rise as families face Brexit-induced economic hardship, key rights and protections like the EU Victim's Directive are no longer protected, and legislation protections may be lost or undermined (loss of EU case law and ECJ).

- J Migrant Women: The UK's 'right to reside' requirements *systematically disadvantage women*, as a result of economic inactivity due to caring responsibilities, their prevalence in informal and precarious employment, challenges in acquiring settled status for children, their inability to access required documents, and various other contributing factors.
- J Non-EU partners of EU nationals, victims of domestic violence and human trafficking, low-income and economically inactive EU nationals, long-term and elderly residents, and carers, all of whom are disproportionately female, face further additional barriers and challenges to securing settled status through a system designed for 'productive man'
- J BAME women will be additionally and disproportionately affected by the impact of Brexit as already substandards of healthcare (esp. maternity and pain relief) for BAME are exacerbated, austerity continues to hit BAME women and families the hardest, public spending cuts disproportionately disadvantage BAME female employees and beneficiaries, and Brexit uncertainty leaves Zambrano women and families in limbo.
- J Muslim women are disproportionately targeted in anti-Muslim hate crimes, which have seen a sharp rise since Brexit (475% increase in the days following the Brexit vote).

- J) Brexit-induced threats to LGBTQI+ women include: rising post-referendum homophobic attacks; risks to medical supplies for transgender patients; and the loss of key rights and protections enshrined in the Charter and ECJ rulings.
- J) Brexit will impact disabled women through the loss of the EU Charter’s right to non-discrimination on the basis of disability; predicted welfare and public service cuts; loss of EU funding for disabilities charities; and missing out improved access rights and provisions through the 2019 EU Accessibility Act; as well as impacting their majority-female carers.
- J) Due to high levels of EU funding in Wales, post-Brexit defunding of key gender equality projects and women’s support services in Wales would have a damaging effect on gender equality in Wales and for Welsh women.
- J) Planned border checks between Northern Ireland and the rest of the UK will result in additional barriers to Northern Irish women’s access to safe abortions. Women in Northern Ireland will also be particularly affected by the loss of EU funding (esp. the PEACE fund and women’s rights and services funding) and an increased risk to equal rights and standards compared to the EU and UK.

a. Women’s Rights Organizations and Support Services

This section will address the potential impact of Brexit on the organizations, lobbies, charities and networks which give a voice to women’s rights and interests, and which provide life-saving and life-changing support to disadvantaged and vulnerabilized women in the UK. These organizations have already been weakened by the impact of a decade of austerity, through a pattern of chronic defunding, restricted public services, reduced political influence and deprioritisation in public finances and attention. Depending on the outcome of Brexit, these organizations risk being cut off from their European partners and from EU funding streams and research initiatives, and deprioritised domestically in terms of political influence and funding. The progress of women’s rights and gender equality depends to a large degree on the political influence and funding of these groups. The risks posed by Brexit on such groups are likely to have serious long-term effects for women’s voices and lives in the UK unless the Government provides binding guarantees and takes active steps to secure funding, membership and influence for these groups post-Brexit³⁵⁶.

The Impact of Brexit on Women’s Organizations: Policy Influence and Collaboration

There have been significant concerns raised regarding the loss of political influence, lobbying power, advocacy work and policy networks in the area of gender equality and women’s rights as membership to key organizations and networks, funding streams and political groups and committees are at risk of being lost.

Researchers have warned that “in a post-EU membership environment, British women will find themselves deprived of EU advocacy for gender equality”³⁵⁷. Guerrina and Masselot also stated that:

³⁵⁶Whilst steps to mitigate the effects of Brexit on these groups, for example, by providing adequate information and guarantees that these groups will be sufficiently funded by the UK Shared Prosperity Fund, some of the effects of Brexit on these groups cannot be avoided. The UK will not be able to maintain membership of the Women’s Rights and Gender Equality (FEMM) Committee at the European Parliament, and it will not be able to actively participate in the construction of legislation relating to women’s rights and interests.

³⁵⁷ Page 327, Guerrina and Masselot 2018.

“British women will lose representation in the EP as well as through transnational networks of organised civil society. Women’s advocacy groups will no longer be able to draw on powerful allies within European institutions to hold member states accountable. It is unlikely that those losses can be mitigated by domestic advocacy”³⁵⁸

Following growing concerns that UK women’s organization would be excluded from European networks and activities, some groups have stepped forward to mitigate the effects of Brexit in dividing UK gender equality efforts from the rest of Europe. Significantly, the European Women’s Lobby, (the single largest European umbrella network of women’s associations representing over 2,000 organisations) has indicated that it will continue to include the UK as a full member of the organization following Brexit by including it as a Free Trade Association Country. This membership may not apply in the case of a no-deal Brexit, which would not include a Free Trade Agreement, leaving women’s rights organizations in the UK increasingly isolated from European policy making and networks. Membership of a multitude of other European networks, umbrella organizations, and advocacy groups by UK women’s organizations will seemingly depend on the type of Brexit deal agreed and the individual allowances of these European organizations to extend inclusion to UK bodies post-Brexit.

However, regardless of the deal arranged, the UK would no longer be represented, or be able to participate within the European Parliament’s Women’s Rights and Gender Equality (FEMM) Committee. This Committee plays a pivotal role in influencing EU and member state policies and actions towards gender equality, and acts as a vital resource for women’s and equalities organizations in the UK. At a 2018 event on Women and Brexit, Vice Chair of the FEMM Committee and London MEP Mary Honeyball stated that the UK’s absence from the committee could lead to a loss of “plethora activity which does not exist, at least at government level, in Britain”³⁵⁹. The WBG has also reiterated concerns by various women’s organizations that the “UK does not have comparably influential institutions to those working in the EU to further gender equality, and at home, grassroots gender equality movements have been weakened by austerity”³⁶⁰.

In 2010 the Government disbanded the Women’s National Commission, chaired by the Minister for Women, which acted as the primary platform for over 650 women’s organizations and led advisory actions on women’s rights and gender equality issues. Whilst the Government made assurances that its work would be taken in-house, this has not taken place in practice³⁶¹. The absence of any replacement for this platform has resulted in diminished access to policy influence and Government advisory action. Following the loss of EU membership, women’s organizations in the UK will have to rely further on domestic networks and platforms, which are currently lacking due to the absence of the WNC and a FEMM Committee equivalent.

Expected defunding of women’s organizations as a result of Brexit will have a significant impact on their ability to influence policy and give a voice to a variety of women’s issues. Reduced funding forces these organizations to prioritise frontline work at the cost of work towards campaigning, lobbying, networking and research³⁶².

³⁵⁸ *ibid*

³⁵⁹ <http://www.europarl.europa.eu/news/en/press-room/20180426IPR02629/gender-brexit>

³⁶⁰ Page 10, WBG and Fawcett Society 2018 Report. See also: Bunyan, D., Longworth, J. and Page, M. (2017, June 20). ‘The Making of Feminist Democracy in a Brexit Environment.’ Symposium: Strengthening gender equality in Post-Brexit Britain. University of Bristol.

³⁶¹ See Baroness Gale’s speech in the House of Lords on the loss of the WNC in relation to the impact of Brexit on Women. Column 774, available at <https://hansard.parliament.uk/Lords/2019-03-07/debates/0120569F-55D4-49B5-BCFB-B80026B75BA5/InternationalWomen%E2%80%99SDay?highlight=women%20brexit#contribution-5495B72B-896D-4065-8F4A-D037AFFD45BF>

³⁶² Page 9. Chilcott, A. 2017. Gender 5+ Report on ‘Gendering Brexit: the role and concerns of feminists and women’s rights organisations in the UK’. Available at: https://docs.wixstatic.com/ugd/530efa_daf3572829014d2c81997f735f79a0b3.pdf

Defunding Women's Organization and Support Services

The European Commission funds a wide range of research and services which supports gender equality and women's rights, particularly for those tackling violence against women and girls (VAWG) in the UK, through funding streams such as the DAPHNE fund, the Rights Equality and Citizenship (REC) fund, and the European Social Fund (ESF). The UK received £9.3bn in funding through the European Structural and Investment Fund between 2014-2020, more than half of which (5.55bn) is linked to activities which focus on equality issues. A key objective of this fund is to 'promote social inclusion and combat poverty and any discrimination'³⁶³. From 2007-2013 the Daphne Programme had a budget of £14 million per year on average, with 99 of the projects which received funding (15% of total) directly supporting women and children at risk in the UK³⁶⁴. Overall, nearly one third of funding for women's organizations in the UK is provided by Government sources, including EU funds³⁶⁵.

The EU REC Fund has specific objectives to promote gender equality and to tackling violence against women and girls, as well as other at-risk groups^{366 367}. A Fawcett Society report noted that, "of 140 projects supported by the £364m REC programme since 2014, just over one third had a UK lead or partner"³⁶⁸. The report also examined two women's organizations which provide health and social care and support for victims of sexual and domestic violence and exploitation, which are set to lose 14% and 40% of their funding, respectively, if EU funding is not sufficiently replaced post-Brexit³⁶⁹.

Jemima Olchawski, chief executive of Agenda, a charity that supports women and girls at risk of inequality, poverty and violence, says organisations that support marginalised women and girls are already small and "rely on small, often unstable funding streams to survive". This makes longevity precarious, particularly in light of Brexit. As Olchawski stated: "At least a fifth of our member organisations depend on some form of EU funding. At the moment all their funding streams are being squeezed. To lose this funding from the EU would leave them more vulnerable than ever"³⁷⁰.

(Further information on EU funding for women and gender equality projects and services, as well as the impact of Brexit of Brexit on these funding streams is available here³⁷¹).

UK Replacement Funding: The UK Shared Prosperity Fund

The Government has stated that it will honour ESF and ERDF commitments for agreed projects until 2020, as long as they represent 'value for money' and align with "domestic priorities". This commitment has been criticised for not providing a sufficient guarantee for such funding as domestic priorities are yet to be defined, and the economic threat of Brexit is likely to have an impact on the extent to which projects on gender and equality are viewed as 'value for money'³⁷².

³⁶³ EU Funding After Brexit: Shared Prosperity Must Mean Shared Rights, Liz Shannon, EFG parliamentary and policy adviser, 24 October 2018

³⁶⁴ page 5 <https://www.equallyours.org.uk/wp-content/uploads/2018/02/EDF-SHARED-PROSPERITY-FULL-REPORT.pdf>

³⁶⁵ https://docs.wixstatic.com/ugd/530efa_daf3572829014d2c81997f735f79a0b3.pdf

³⁶⁶ <https://www.equalityhumanrights.com/sites/default/files/pressing-for-progress-womens-rights-and-gender-equality-in-2018-pdf.pdf>

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

³⁶⁸ <https://www.fawcettsociety.org.uk/Handlers/Download.ashx?IDMF=294c23f5-95f4-4f00-a8ce-eb52e7606c6c>

³⁶⁹ page 7 <https://www.fawcettsociety.org.uk/european-withdrawal-bill-committee-stage-briefing>

³⁷⁰ <https://www.refinery29.com/en-gb/2019/01/221450/brexit-women-uk>

³⁷¹ <https://www.equallyours.org.uk/wp-content/uploads/2018/02/EDF-SHARED-PROSPERITY-FULL-REPORT.pdf> ; <https://wbg.org.uk/analysis/life-changing-life-saving-funding-for-the-womens-sector-2/>

³⁷² <https://www.equallyours.org.uk/wp-content/uploads/2018/02/EDF-SHARED-PROSPERITY-FULL-REPORT.pdf>

The government has also pledged to set up a Shared Prosperity Fund to “reduce inequalities between communities” which it claims will “replace EU structural funding after Brexit”³⁷³. However, despite increasing pressure to release details of the fund, the government has yet to decide on the following:

- J the priorities and objectives of the Fund;
- J the **amount of money to be allocated**;
- J the method of allocating it between the countries and regions of the UK, and whether this is based on need (and what measure is used to determine need);
- J the model by which funding will be allocated, whether pre-allocating an amount for a country or region or inviting competitive bids from across the UK;
- J the length of the planning period and the way in which this could conflict with domestic spending priorities;
- J who administers the funds (whether they are controlled from Westminster or by the devolved administrations) and the degree to which local authorities are involved.³⁷⁴

Considering that these issues have not been resolved at the time of writing this report, there remains little substantive information on this critical replacement funding despite the short amount of time left before Brexit and the fund’s supposed implementation (the original deadline having already passed with no further information given on the fund). There are particular concerns that funding may significantly decrease, as the Government’s briefing on the fund states that “the amount of funding that goes into the Shared Prosperity Fund will therefore be a balancing act between trying to maintain economic development in the countries and regions of the UK and trying to keep control of public spending”³⁷⁵. As previously noted, the economic consequences of Brexit are extremely likely to harm economic developments across UK regions and to result in a sharp fall in public spending. The government briefing acknowledged this likelihood, stating that “the economic impact of Brexit may mean that *there is less money to go around*, and there are already several interests competing for a share of this money”³⁷⁶. The lack of financial stability in this fund means that recipients of current EU funding are at risk of defunding post-Brexit, which will have dire consequences for female beneficiaries of organizations which rely on this funding.

Several Welsh MPs have spoken out against the lack of clarity and guarantees regarding the Shared Prosperity Fund, particularly as Wales is a significant beneficiary of EU funding. Shadow Wales office minister and Labour MP, Chris Ruane, has called for information on the timing and design of the Fund to be released, stating that “the lack of clarity is absolutely maddening”³⁷⁷. Ruane has stated that businesses are unable to make decisions beyond 2020 and that local government is unable to progress with infrastructure projects due to the lack of information or security for this funding. Welsh MP Ben Lake has also stated that “this lack of information and forward planning on such an essential funding stream is alarming”, adding that the “negligence” shown by the UK government is “astounding”³⁷⁸.

The risk of further defunding to vital women’s services, as well as to wider projects concerning social and gender equality, is of critical concern. Women suffering from physical, sexual, and structural violence, particularly those from already disadvantaged groups, depend on services which have already been stripped

³⁷³ <https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-8527>

³⁷⁴ *ibid*

³⁷⁵ <https://researchbriefings.files.parliament.uk/documents/CBP-8527/CBP-8527.pdf>

³⁷⁶ *ibid*, *itals added*

³⁷⁷ <https://www.bbc.com/news/uk-wales-politics-46782174>

³⁷⁸ *ibid*

of funds and resources through a decade of austerity cuts. The impact of defunding these services is far-reaching:

-) Defunding women’s refuges will see female homelessness, domestic violence, femicides and mental and physical trauma rise
-) Defunding women’s legal aid provisions (which have already been severely cut by the state) will impact women’s access to justice, particularly in cases of discrimination and family law
-) Defunding women’s skills workshops will increase female poverty, the gender wage gap, and women’s economic empowerment
-) Defunding prostitution and substance abuse support services will see increasing mental and physical health problems among women and increasing numbers trapped in cycles of abuse
-) Defunding women’s health inequalities will see female morbidity and mortality rate increase and a widening gender health gap
-) Defunding specialist support services for BAME and disabled women will see these groups further marginalised and vulnerabilised, as they are already disadvantaged within the public services and welfare systems.

The statement from UN special rapporteur on poverty, stating that vulnerable and disadvantaged groups are merely an “afterthought” in the Government’s consideration of Brexit impacts, may be equally applied here. It is unacceptable that vital funding for the most vulnerable members of society, who are disproportionately female, appears to be an afterthought in the Government’s Brexit preparations. Despite statements promising that the funding will be provided, the complete lack of crucial information or preparation regarding the length, responsibility for, allocation, and importantly, the amount of funding, as well as its own admission that “Brexit may mean there is less money to go around” in its report on the fund, illustrates a critical disjuncture between promises made and the necessary actions to fulfill these promises. The loss, reduction or inequal redistribution of this funding will have long-lasting effects on women’s organizations and services, the large numbers of vulnerable and disadvantaged women who depend on this funding, and for gender equality and women’s rights and protection progress in the UK.

b. Intersectional Brexit: Examining the Impact on Marginal and Vulnerable Groups of Women

The consequences of Brexit will be felt to differing degrees and in different ways for women across the UK. The various socio-economic and identity-determined effects of Brexit on women means that some will be hit harder than others. In addition to the heightened impact of Brexit on working-class and economically disadvantaged women discussed in this report, several studies have highlighted the fact that migrant and BAME women will be hit hardest by the economic, social and legal impact of Brexit. Marginalized groups, including disabled and LGBTQI women, will also face increased and specific threats. The effects of Brexit also differ in terms of regionality, in particular for Welsh and Northern Irish women. There is a notable absence of literature which reveals and compares the intersectionality of Brexit effects. This section seeks to address some of the ways in which these specific groups will be additionally and disproportionately affected by Brexit as a result of their intersecting identities and positionalities, including: female victims of sexual and domestic violence, migrant women (specifically female EU nationals in the UK), BAME and Muslim women, LGBTQI+ women, disabled women, Welsh and Northern Irish women. Of particular note is the ways in which the ‘settled status’ process *systematically disadvantage* and *actively discriminate* against migrant women, and poses a significant threat towards specific vulnerable groups of women.

Female Victims of Sexual and Domestic Violence

Victims of violence against women and girls (VAWG) constitute a particular group which will be significantly and disproportionately disadvantaged as a result of Brexit, and who face particular challenges in addressing threats which are likely to be exacerbated as a result of Brexit.

Sexual violence, domestic violence and femicides have each risen by 23-25% per year since the Brexit vote (between 2016/2017 and 2017-2018). Police-recorded sex offences rose 25% from 2016-2017 (145,000 offences)³⁷⁹, police-recorded domestic violence offences also rose 23% from 2017-2018 (599,500 offences)³⁸⁰, and femicides rose by 23%, from 113 to 139 adult female victims³⁸¹. The UK also has some of the worst rates of domestic violence and VAWG in the EU: at 44% of women being victims of violence, the UK has the 5th highest rate of violence against women in the EU28; at 29% it has the 4th highest rate of partner-perpetrated violence; and at 68%, it has the 6th highest rate of sexual harassment in the EU³⁸².

In terms of funding, the continued uncertainty surrounding the scope, distribution, priorities, and amount of funding allocated to support services for victims of VAWG under the prospective Shared Prosperity Fund. The loss of EU funding for vital women's services risks aggravating the existing pattern of defunding which has affected already overstretched and under-supported services. Since 2010, one in six refuges have closed despite 1.3 million women suffering from domestic violence in the UK per year, over 100,000 of whom are at high and imminent risk of being murdered or seriously injured from domestic violence per year³⁸³. In 2016-2017, 3 out of 5 women referred to refuges were declined as a result of insufficient spaces and funding³⁸⁴. 85% of victims sought help an average of five times from professionals in the year prior to receiving effective assistance³⁸⁵. Without sufficient funding, these services are unable to provide effective care to some of the most vulnerable people in society. Despite generating social value 5-11 times greater than the amount invested in them³⁸⁶, women's services remain chronically underfunded, putting thousands of women's lives at risk.

In terms of legal protections and provisions for victims of VAWG, these are precariously placed post-Brexit, and will require increased Government attention if they are to be sufficiently safeguarded beyond the transition period. The Director of women's legal rights charity Rights for Women, Estelle du Boulay, has expressed serious concern regarding the impact of Brexit on domestic violence victims' access to justice and safety. She argues that legal changes due to Brexit may complicate an already complex legal process where women face significant barriers and challenges in seeking justice and safety for them and their families³⁸⁷.

³⁷⁹ <https://www.equalityhumanrights.com/sites/default/files/pressing-for-progress-womens-rights-and-gender-equality-in-2018-pdf.pdf>

³⁸⁰ <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/domesticabuseinenglandanddwales/yearendingmarch2018>

³⁸¹ The Femicide census 2017, study excludes girls, unsolved murders and those committed abroad. <https://www.womensaid.org.uk/femicide-census-of-2017/>

³⁸² https://ec.europa.eu/newsroom/just/document.cfm?doc_id=50074

³⁸³ <http://www.safelives.org.uk/policy-evidence/about-domestic-abuse>

³⁸⁴ <https://www.womensaid.org.uk/refuges-send-sos-response-governments-proposed-supported-housing-funding-plans/>

³⁸⁵ <http://www.safelives.org.uk/sites/default/files/resources/Getting%20it%20right%20first%20time%20-%20complete%20report.pdf>

³⁸⁶ [http://www.socialvalueuk.org/app/uploads/2016/03/Hidden%20Value_WRC%20SROI%20Report_%202011%20\(2\).pdf](http://www.socialvalueuk.org/app/uploads/2016/03/Hidden%20Value_WRC%20SROI%20Report_%202011%20(2).pdf)

³⁸⁷ Quoted in <https://www.refinery29.com/en-gb/2019/01/221450/brexit-women-uk>

The Istanbul Convention and the Domestic Abuse Bill

In terms of the UK's overarching commitments and strategies on combatting VAWG, the EU provides systemic pressure and impetus towards improving UK standards, which the UK has in some cases demonstrated significant resistance towards. The UK is one of only seven EU countries which have not yet ratified the the Istanbul Convention, despite signing it in 2012³⁸⁸. The convention requires countries to criminalise all forms of violence against women, including stalking, forced marriage, female genital mutilation, forced abortion and sterilisation and to take active steps to tackle these. In March 2015, Conservative MEPs voted against an amendment encouraging member states to ratify the Convention, contrary to all other UK MEPs (UKIP abstained, all other UK parties voted in favour).

The Domestic Abuse Bill, which was announced in the June 2017 Queen's speech and holds cross-party support, is a critical piece of legislation which would not only improve the approach of the justice system and wider statutory agencies on cases of domestic abuse³⁸⁹, but has been put forward by the Government as a necessary precondition to UK ratification of the Istanbul Convention³⁹⁰. The Bill has been repeatedly delayed, with Brexit cited as a key cause of the delay. The prorogation of Parliament (5 weeks over September-October 2019) has caused not only a further delay to the Bill, but unless it is announced in the next Queen's speech, will be dropped entirely. The Government has stated that it is "absolutely committed to legislating to support victims of domestic abuse", but has not yet provided "clear public commitment" that the legislation will be brought back after prorogation, despite calls from multiple charities to do so³⁹¹.

Considering the UK resistance to EU pressure to ratify the Convention, the Government's justification that the UK simply isn't ready to ratify, and the ongoing delays to the Domestic Abuse Bill, slowing progress and intent to ratify and implement the Convention post-Brexit is a legitimate and growing concern.

Women's Aid, a leading charity which tackles domestic violence in the UK, has also raised the positive contribution EU membership has provided in tackling violence against women and girls. The UK has been supported in both financial and legislative terms, benefiting from laws to protect families and victims of domestic and sexual violence. The charity highlighted the European Protection Order, the European Victim's Rights Directive and the Lisbon Treaty as positively shaping UK measures, policy and law which support victims of violence, especially female victims. The loss of EPOs and EU funding, they claim, are of primary concern, as they offer a level of resources and protection which "provides victims with a layer of support in a UK justice system that often fails them"³⁹².

Cross-border Protections

European Protection Orders (EPOs) grant victims of violence equivalent protections against a perpetrator across the EU, particularly for female victims of domestic violence and abuse. These consist of significant legal rights and protections for victims established by EU Directive, and will no longer be available to UK citizens, or EU citizens in the UK, after Brexit (following the transition period) due to a Government decision to exclude the measure after 2020.

The Government rejected amendments to the Withdrawal Bill which would replicate EPOs for the UK³⁹³. The UK has also shown no intention of 'opting-in' to this protection after 2020, despite recommendations

³⁸⁸ <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/210/signatures>

³⁸⁹ <https://www.gov.uk/government/publications/domestic-abuse-bill-2019-factsheets/domestic-abuse-bill-2019-overarching-fact-sheet>

³⁹⁰ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/752315/CC_S207_CCS0918513168-001_Domestic_Violence_Istanbul_Convention_2018_Accessible_002_.pdf

³⁹¹ <https://www.bbc.com/news/uk-politics-49655201>

³⁹² Mary Mason, CEO for Women's Aid, quoted in <https://www.refinery29.com/en-gb/2019/01/221450/brexit-women-uk>

³⁹³ Hansard 25/04/18, col. 1597-1605

to do so. The Government has also rejected amendments which would require them to report to the UK Parliament on progress made to replicate other cross-border VAWG protections³⁹⁴. The #FaceHerFuture coalition also campaigned for several other amendments to the Withdrawal Bill on VAWG funding and cross-border cooperation. Despite being tabled and holding support from various peers, these amendments were not pushed for a vote in the House of Lords.

The Fawcett Society also found that “our ability to share data on perpetrators, as well as a whole host of other measures aimed at tackling human trafficking, FGM, enforcing child maintenance orders, and the sexual exploitation of children are also at risk”³⁹⁵. All of these issues disproportionately or specifically affect women. According to UK and EU data, women make up 80% of human trafficking victims³⁹⁶, a large majority of child maintenance order claimants (and where over 1/3 of UK single mothers are in debt due to non-payment of child support³⁹⁷), 80% of victims of child sex abuse³⁹⁸, and all cases of FGM. The loss of EPOs and other key protective measures leaves victims, and in particular female victims, at risk of increased levels of violence, exploitation, neglect and abuse, and may harm efforts to protect and gain justice for survivors.

Migrant Women: Settled Status and ‘Productive Man’

Women make up a majority of EU nationals resident in the UK, with 1,773,000 EU national women living in Britain in 2017³⁹⁹. This section will address the gendered effects of Brexit on migrant women, specifically female EU nationals.

Current EU nationals living in the UK are required to apply for ‘settled status’ on the condition that they fulfill the ‘right to reside’ requirements⁴⁰⁰. These are based upon employment and residency criteria established with “productive man in mind”⁴⁰¹. The process has been found to ‘systemically disadvantage women’ by researchers. Women are more likely to have rental contracts, property deeds, and utility bills in their partner’s name – documents which are needed to prove residency. Women are vastly more likely to be involved in unpaid labour, including childcare, housework, and caring for sick or elderly relatives which does not constitute formal employment required by the application process. Women are also more likely to be involved in precarious employment, such as part-time, zero-hours, casual work and agency work, which can result in both large gaps and patchy employment records and add difficulties in attaining records and formal documents and proof. These factors are even more applicable to migrant women, who are more likely to have precarious living and working conditions and be involved in unpaid care work than non-migrant women.

‘Economic Inactivity’ of Carers

Research requested by the PETI Committee found that since “residence for economically inactive individuals is still conditional upon having sufficient resources ... at least some economically inactive

³⁹⁴ *ibid*

³⁹⁵ <https://www.fawcettsociety.org.uk/Handlers/Download.ashx?IDMF=294c23f5-95f4-4f00-a8ce-eb52e7606c6c>

³⁹⁶ <http://www.europarl.europa.eu/news/en/headlines/world/20141203STO82703/human-trafficking-80-of-victims-in-the-eu-are-women-and-girls>

³⁹⁷ <https://www.independent.co.uk/news/uk/home-news/single-mothers-debt-child-support-living-costs-rent-mortgage-finance-family-law-a8681856.html>

³⁹⁸ <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/abuseduringchildhood/findingsfromtheyearendingmarch2016crimesurveyforenglandandwales>

³⁹⁹ <https://migrationobservatory.ox.ac.uk/resources/commentaries/gender-breakdown-for-selected-groups-of-eu-nationals-2017/>

⁴⁰⁰ Under the Withdrawal Agreement, residence must be in accordance with Directive 2004/38, which means having complied with the ‘right to reside’ requirement

⁴⁰¹ Anne-Laure Donskow, the 3 Million Campaign.

individuals are potentially unable to gain settled status (no matter how long they had been living in the host country)⁴⁰². The report specifically identified women, as a majority of carers, as ‘a particular worry’ for this issue. In fact, women make up over 90% of EU nationals in the UK who are not in paid employment due to caring duties for family members⁴⁰³. Overall, women are over 60% more likely to be economically inactive than men in the UK, with 16.6% of men being economically inactive compared to 26.7% of women, primarily due to caring duties⁴⁰⁴. The WBG have also weighed in on these concerns, stressing that these requirements are “particularly likely to impact on women because their disproportionate responsibility for unpaid caring and other reproductive labour may mean periods out of paid employment or self-employment”⁴⁰⁵.

Female Non-EU Partners

Women also make up a majority (59%) of non-EU national partners of EU nationals⁴⁰⁶, who face additional barriers to securing settled status. The PETI Committee report also found that UK residents who derive their rights from national rather than EU law, for example, if they are married to a UK citizen and are not economically active or independent, would not be eligible for settled status. The report stated that:

“This might have important consequences, for instance in case of divorce or change in circumstances, and potentially in relation to the right to work and the right not be discriminated against, especially in relation to social and tax advantages. Furthermore, there is a risk that women will be particularly at a disadvantage since caring responsibilities might have prevented them from being able to take on an economic activity and therefore gain autonomous protection.”⁴⁰⁷

In this way, non-EU women’s residency and employment in the UK are also placed at risk as a result of yet another gap in the settled status system for determining post-Brexit residency which disadvantages women.

Falling Through the Cracks

If EU citizens living in the UK do not apply for settled status or if they are refused (by not meeting requirements, being unable to produce documents, misunderstanding the procedures, etc.), they will be considered ‘illegal residents’. The Migratory Observatory has conducted research into the categories of people at risk through this process, and have found that women and girls are overrepresented in many of the at-risk groups they identified⁴⁰⁸. Female EU migrants are also more likely to not realise that they need to apply for settled status, with 61% of long-term EU migrants being women⁴⁰⁹. Elderly EU nationals in the UK (72% female⁴¹⁰) are also at risk, both in terms of awareness of the need to apply and their ability to navigate the smartphone technology necessary to complete an application. Women also make up 2/3 of EU

⁴⁰² [http://www.europarl.europa.eu/RegData/etudes/IDAN/2018/604959/IPOL_IDA\(2018\)604959_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2018/604959/IPOL_IDA(2018)604959_EN.pdf)

⁴⁰³ <https://www.thinknpc.org/wp-content/uploads/2018/10/How-the-EU-settlement-scheme-affects-women-and-girls.pdf>

⁴⁰⁴ <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/bulletins/uklabourmarket/jan2017>

⁴⁰⁵ Page 10-11. WBG and Fawcett Society 2018 Report

⁴⁰⁶ <https://migrationobservatory.ox.ac.uk/resources/commentaries/gender-breakdown-for-selected-groups-of-eu-nationals-2017/>

⁴⁰⁷ [http://www.europarl.europa.eu/RegData/etudes/IDAN/2018/604959/IPOL_IDA\(2018\)604959_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2018/604959/IPOL_IDA(2018)604959_EN.pdf)

⁴⁰⁸ The Migration Observatory, Unsettled Status? Which EU citizens are at Risk of Failing to secure their Rights after Brexit? 12 April 2018, <https://migrationobservatory.ox.ac.uk/resources/reports/unsettled-status-which-eu-citizens-are-at-risk-of-failingto-secure-their-rights-after-brexit/>

⁴⁰⁹ NPC, How the EU settlement scheme affects women and girls, Oct 2018

⁴¹⁰ <https://migrationobservatory.ox.ac.uk/resources/commentaries/gender-breakdown-for-selected-groups-of-eu-nationals-2017/>

nationals who are not internet users⁴¹¹, meaning that they will require assistance from an internet-user to make their application, adding further challenges to the process.

Professor O'Brien, who works for the EU Rights Project, has expressed concern over "how unforgiving the right to reside requirement can be of employment histories that have been punctuated with periods of child care, or caring for disabled or older relatives"⁴¹². She also noted that with 3.8 million EU citizens in the UK to account for, "an overstretched department is unlikely to have much time to reach out to those people that the Migration Observatory has identified as being at risk of failing to secure their rights. And among these groups, women are overrepresented."

Children and Families

There are over half a million EU national children currently living in the UK, all of whom will need to apply for the right to reside, and meet all of the criteria, in order to stay. Coram Children's Legal Centre has stated that there are "significant obstacles that many children and families will need to overcome in order to gain status"⁴¹³. Their report highlights several groups which are particularly at risk, including: children who are unable to prove their nationality or length of residence in the UK (e.g. children in care); children with complex cases (which will include many separated children); and children from families who derive their rights to remain from EU case-law⁴¹⁴. As a majority of primary caregivers and lone-parents, women may face significant hurdles in obtaining settled status for both themselves and their children in these cases.

Restrictive Migration and the Social Care Deficit

Additionally, if the current £30,000 minimum salary cap (or other restrictive measures) are imposed on EU nationals as foreign workers post Brexit, the resulting staff shortages are likely to adversely affect traditionally female-dominated sectors, such as social care, as they are particularly low-paid sectors. As mentioned previously, 82% of the adult social care workforce is female. Staff shortages as a result of salary caps and restrictive migration policies will exclude female EU workers on the basis of low sector pay and will increase the burden on UK women working in the sector.

It should also be noted that women's reliance on public health services (discussed earlier in this report) and the increased challenges facing them in gaining the right to reside is made more concerning by the Government's assessment in its Yellowhammer papers that "Healthcare may require people to demonstrate residency, current or previous employment, enter a social insurance scheme, or purchase private insurance"⁴¹⁵. Lower incomes and higher rates of informal employment also add barriers for women gaining private insurance⁴¹⁶.

Migrant Victims of Domestic Violence

In order to receive 'settled status', applicants must provide evidence of five years of continuous residence. Women forced to relocate due to domestic violence may see their '5-year-clock' reset each time, adding

⁴¹¹ <https://migrationobservatory.ox.ac.uk/resources/commentaries/gender-breakdown-for-selected-groups-of-eu-nationals-2017/>

⁴¹² <https://www.equallyours.org.uk/edf-gendering-brexit-blog-series-gentlemens-agreements-proposals-on-the-table-for-eu-citizens-rights-disadvantage-women-by-design/>

⁴¹³ https://www.childrenslegalcentre.com/wp-content/uploads/2018/08/EU-Settlement-Scheme_concerns_August2018FINAL.pdf

⁴¹⁴ *ibid*; see also http://www.crae.org.uk/media/126991/B5_CRAE_IMMIGRATION_2018_WEB.pdf

⁴¹⁵ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/831199/20190802_Latest_Yellowhammer_Planning_assumptions_CDL.pdf

⁴¹⁶ <https://wbg.org.uk/wp-content/uploads/2019/09/operation-yellowhammer-final-12-09-19.pdf>

another barrier to proof of residency requirements. Women make up 61% of EU nationals who are victims of domestic abuse, with 53,000 EU women suffering from reported domestic violence in the UK⁴¹⁷. Female EU victims of domestic violence and VAWG are less likely to achieve settled status than male EU migrants. As the Fawcett Society Report points out, these women are “likely to face specific difficulties accessing documentation providing their right to remain”⁴¹⁸. Perpetrators often use immigration status as a means of coercive control (such as threats of deportation to force victims to stay within a relationship), and abuse often involves control of the victim’s finances and documentation by the perpetrator. As the Fawcett Report explains: “Women depending on partners or ex-partners for evidence may therefore find it harder to prove their right to settled status”⁴¹⁹.

Several women’s organizations have raised the issue that this process of acquiring settled status is heavily weighed against female victims of domestic violence. Estelle du Boulay (Director of Rights of Women) has stated that this process:

*... will inevitably disproportionately impact on vulnerable women survivors who need to make an application to stay in the UK for themselves and their children (if they have any) ... Survivors frequently have complex needs or face increased marginalisation in society. They are therefore likely to struggle more than others with the proposed cost of making an application, completing the online registration process and providing evidence to support their application, especially if they have to rely on an abusive ex-partner for some of that evidence*⁴²⁰

Similarly Mary Mason, CEO of Women’s Aid, has also raised concerns over EU migrant women who suffer domestic violence being made more vulnerable by the process, stating that “their insecure immigration status can be used as leverage in abusive situations as their lack of support isolates these victims of crime further”⁴²¹.

In combination with other factors (including the loss of EPOs, ECJ jurisdiction and EU case law, and EU funding for support for domestic violence victims and tackling the causes of VAWG and domestic violence), female EU nationals suffering from domestic violence face significant challenges in securing their right to stay in the UK post-Brexit. The UK Government has not taken sufficient steps to protect this group from the negative impact Brexit is likely to have on them, nor has it considered the ways in which its own actions (particularly the settled status system) systematically disadvantages this group.

Female Victims of Human Trafficking

Restrictive immigration policies tend to correlate to increased human trafficking cases. Depending on immigration policies and practices following Brexit and alongside other factors which reduce protections for trafficking victims, the UK may see a rise in human trafficking cases and a drop in support and protection for these victims as a result. Women and girls are more likely to be victims of human trafficking (80% female victims) and in particular sex trafficking, which constitutes 69% of all trafficking victims and where 95% of sex trafficking victims are female⁴²².

Women’s systematic disadvantage in gaining settled status is exacerbated in human trafficking cases, where victims “will struggle to evidence their right to remain as often they have little or no access to resources,

⁴¹⁷ Based on reported figures, true figures are likely much higher according to monitoring groups and experts.

<https://migrationobservatory.ox.ac.uk/resources/commentaries/gender-breakdown-for-selected-groups-of-eu-nationals-2017/>

⁴¹⁸ <https://www.fawcettsociety.org.uk/Handlers/Download.ashx?IDMF=294c23f5-95f4-4f00-a8ce-eb52e7606c6c>

⁴¹⁹ *ibid*

⁴²⁰ Quoted in <https://www.refinery29.com/en-gb/2019/01/221450/brexit-women-uk>

⁴²¹ *ibid*

⁴²² https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-is-new/news/news/docs/20141017_working_paper_on_statistics_on_trafficking_in_human_beings_en.pdf

and in some cases have their passports and IS taken away from them”⁴²³. Women’s increased risk of rejection or inability to apply for settled status, and subsequent assignment of ‘illegal immigrant’ status, further increases their vulnerability to human traffickers. Female migrants in exploitative employment and relationships, particularly victims of human trafficking and modern slavery, risk being trapped into illegal statuses and systems of exploitation as they fall through the substantial gaps in the current system.

Migrant women may also be exposed to higher risks of human trafficking, as victim’s rights and access to support and assistance will not be guaranteed in the future unless steps are taken to fully embed the Victim’s Rights Directive into UK law⁴²⁴. An EHRC report on women’s rights and gender equality in 2018 expressed concern that “the withdrawal of the UK from the EU, and therefore the obligation to uphold the 2011 EU Trafficking Directive, may result in a regression in the rights of victims to support and assistance”⁴²⁵. Furthermore, the UK’s decision to leave the jurisdiction of the CJEU, the Anti-Trafficking Monitoring Group warns, “pose[s] an existential threat to continued participation by the UK in European security and criminal justice mechanisms, including those that enable us to combat modern slavery”^{426,427}.

It is critical that the UK Government takes immediate steps to mitigate the ways in which female EU nationals are systematically disadvantaged within the process of gaining settled status. Necessary action must be taken to secure equal access to citizenship status and rights and to protect vulnerable, predominantly female groups from falling through gaps in the system. Migrant women remain acutely vulnerable to the impact of Brexit through their prevalence in public sector employment, as paid and unpaid social carers, as beneficiaries of rights and protections for women and other disadvantaged groups, but critically, in terms of securing the right to live and work in the UK post-Brexit. The risk that these women will lose the right to continue living in their home as a result of a system designed without them in mind, should be considered unacceptable by the Government and immediate action should be taken to rectify this.

Minority Religious and Ethnic Women

This report has discussed the impact of Brexit on women generally, whilst noting that certain groups of women will be particularly affected by various direct and indirect consequences of the UK’s departure. Minority religious and ethnic women will be impacted due to their overrepresentation within socio-economic disadvantaged groups; public sector, as well as precarious and informal employment; and as victims of discrimination and hate-crimes. This positionality means that as a group, they are more likely to be adversely effected by the socio-economic effects of Brexit. The potential erosion of rights and protections will affect them through their gendered and ethnic identities, both of which are enshrined in EU law, including the EU Charter of Fundamental Rights, EU case law and ECJ jurisdiction. This section will briefly address some of the specific threats of Brexit towards minority ethnic and religious women.

⁴²³ <https://www.fawcettsociety.org.uk/Handlers/Download.ashx?IDMF=294c23f5-95f4-4f00-a8ce-eb52e7606c6c>

⁴²⁴ The Anti-Trafficking Monitoring Group (July 2017), *Brexit and the UK’s fight against modern slavery. A briefing by the Anti-Trafficking Monitoring Group*” (EHRC and anti-slavery.org)

⁴²⁵ The Anti-Trafficking Monitoring Group (July 2017), *Brexit and the UK’s fight against modern slavery. A briefing by the Anti-Trafficking Monitoring Group.*

Available at: <https://www.antislavery.org/brexit-modern-slavery/> [accessed: 18 January 2018].

⁴²⁶ <https://www.equalityhumanrights.com/sites/default/files/pressing-for-progress-womens-rights-and-gender-equality-in-2018-pdf.pdf>

⁴²⁷ <https://www.antislavery.org/wp-content/uploads/2017/07/ATMG-Brexit-paper.pdf>

BAME Women

The WBG report on Brexit highlights the heightened effects of Brexit on BAME women in the UK. BAME women are “on average, even more likely than white women to occupy a socio-economic position that makes them vulnerable to cuts in benefits and public services and less likely to benefit from tax changes”⁴²⁸. As a result of post-GFC austerity measures, within “the poorest 20% of households, black and Asian households have seen their living standards fall by 11.6% and 11.2%”, in comparison to a 8.9% fall in white households of the same group⁴²⁹. In economic terms, this represents a £5,090 cut for black households, a £6,526 for Asian households, in comparison to a £3,316 for white households⁴³⁰.

BAME people, particularly BAME women, are more likely to work in the public sector⁴³¹ (especially within the health and social care sector⁴³² - nearly 40% of Black African women are employed in health and social care⁴³³), as well as be in precarious employment such as agency and seasonal work⁴³⁴. Public sector workers, especially NHS staff, are at risk of increased workloads, wage cuts and freezes, and worsening working conditions as a result of cuts to public service funding and staff shortages. Workers in low-paid, precarious employment are particularly vulnerable to staff and working-time cuts, welfare and benefit cuts, and falling employment standards, as well as additional challenges in seeking settled status if they are non-UK EU nationals.

Existing sub-standards of healthcare for BAME women are also likely to worsen post-Brexit, particularly in maternity care. Maternal mortality is five times higher for black British women than white women, and infant mortality for their children is about twice as high for white children. BAME women are also less likely to receive adequate pain relief, including during labour, and generally receive lower levels of care and treatment than white women⁴³⁵. Brexit-related staffing shortage and spending cuts are likely to exacerbate falling standards of care, of which BAME women are especially vulnerable.

As well as the economic impact of public service cuts, there is widespread feeling among BAME women (of those surveyed) that discrimination and racism experienced when accessing public services “had become worse since the EU referendum”. BAME women expressed “a strong feeling of insecurity and uncertainty about the future” in relation to Brexit, and feared the referendum’s influence in “giv[ing] licence to public expression of racism and a search for scapegoats”⁴³⁶.

BAME citizens, and in particular BAME women, will also face potential regression or slowing of progress with regard to racial and ethnic equality legislation in the UK post-Brexit, especially in the case of a no-deal Brexit. Whilst the EU Directive 2000/43/EC on equal treatment between persons irrespective of racial or ethnic origin is currently protected under the Withdrawal Agreement, under a no-deal Brexit the rights and standards protected under the Directive would be exposed to future change and revocation. In the context

⁴²⁸ Page 13. WBG and Fawcett Society 2018 Report.

⁴²⁹ WBG and Runnymede Trust (2017) *Intersecting Inequalities – the impact of austerity on Black and Minority Ethnic women in the UK* (<http://bit.ly/2jLave5>)

⁴³⁰ *ibid*

⁴³¹ Analysis of Labour Force Survey in Women’s Budget Group and Runnymede Trust, *Intersecting Inequalities*. Available at: <http://wbg.org.uk/wp-content/uploads/2018/08/Intersecting-Inequalities-October-2017-Full-Report.pdf>

⁴³² *ibid*

⁴³³ <https://www.rota.org.uk/sites/default/files/events/ROTA%20Brexit%20for%20BME%20briefing%20221118.pdf>

⁴³⁴ TUC. 2015. *Insecure work and Ethnicity*. Available at:

www.tuc.org.uk/sites/default/files/Insecure%20work%20and%20ethnicity_0.pdf

⁴³⁵ <https://www.independent.co.uk/voices/brexit-nhs-maternity-care-pregnancy-bame-black-asian-women-a8896371.html>

⁴³⁶ page 50,

<https://www.runnymedetrust.org/uploads/PressReleases/Correct%20WBG%20report%20for%20Microsite.pdf>

of rising racial attacks and discrimination, it is critical that these rights and standards are sufficiently protected post-Brexit.

Zambrano Carers

One group which has received very little attention are Zambrano families, who intersect BAME, non-EU and EU migrant identities. This group consists of stationary EU citizens (primarily infants) and their non-EU parents (primarily female). These ‘Zambrano Carers’ derive their residency rights from EU Law⁴³⁷. The majority of beneficiaries of Zambrano citizenship rights are BAME female-headed families, with 57% of Zambrano carers having Nigerian, Jamaican or Ghanaian nationality, and with 94% of carers being lone parents, 79% of which are women⁴³⁸.

Neither the EU nor the UK have stated what rights these families will have after Brexit. Despite these citizenship rights intersecting both national immigration law and EU law, Zambrano families have been left out of debates and negotiations of Brexit. The lack of safeguards and clarity over these families’ rights will disproportionately affect BAME migrant single-parent women, as well as their families and children⁴³⁹.

Muslim Women

In addition to BAME and migrant women, Muslim women are particularly vulnerable to the rise of hate crime in the UK. Against a backdrop of rising Islamophobia, there has been a sharp increase in reported hate crimes, which have almost doubled from 2012-13 (42,255) to 2016-17 (80,393), with figures still on the rise. The Home Office noted a particularly sharp increase following the Brexit vote⁴⁴⁰, with a 41% rise in religiously or racially aggravated reported offences in July 2016 in comparison to July 2015. In the days immediately following the Brexit referendum, reports of anti-Muslim attacks rose by a staggering 475%⁴⁴¹. Tell MAMA, which monitors anti-Muslim attacks, found a strong correlation between pro-Brexit and Islamophobic language in the attacks documented around the EU referendum⁴⁴². As well as attacks on individuals, the EU Referendum and Brexit campaign (as well as other events, such as terrorist attacks in London and Manchester) have been linked to a rise in anti-Muslim terrorist attacks and coordinated hate crimes in the UK since 2016⁴⁴³.

Recent statistics on hate crimes against Muslims, which have reached an all-time high, illustrates the gendered dimension of Islamophobic attacks, with 57.5% of victims being women and perpetrators typically being white (72%) and male (64.6%)⁴⁴⁴. Muslim women wearing Islamic clothing are specifically and

⁴³⁷ Under Article 20 TFEU in a case of the same name before the Court of Justice of the European Union (CJEU)

⁴³⁸ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/220217/eia-zambrano-right-to-reside-and-work.pdf

⁴³⁹ Iyola Solanke:

https://www.researchgate.net/publication/330148057_Who_Speaks_for_the_Zambrano_Families_Multi-level_Abandonment_in_the_UK_and_EU

⁴⁴⁰ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/559319/hate-crime-1516-hosb1116.pdf

⁴⁴¹ <https://tellmamauk.org/project/475-rise-in-anti-muslim-attacks-following-the-eu-referendum-in-2016/>

⁴⁴² Anti-Muslim hate crimes frequently included sentiments and language which connected the decision to leave the UK with expressions of hatred and exclusion and threats against Muslim people. Some illustrative examples of the language used against Muslim victims which used the referendum result as a motive and justification for Islamophobic attacks and abuse are documented here: <https://www.newstatesman.com/politics/uk/2016/06/25-times-people-used-brexit-attack-muslims-eu-referendum>

⁴⁴³ Large-scale and non-individual attacks include the 2017 Finsbury Park attack, a string of attacks on 5 mosques in Birmingham, as well as planned attacks to detonate a bomb in the UK’s largest mosque.

⁴⁴⁴ https://tellmamauk.org/wp-content/uploads/2018/07/Tell-MAMA-Report-2017.pdf?utm_source=Tell+MAMA+-+Press+Release+22072018&utm_campaign=Poland+Report&utm_medium=email

disproportionately targeted, with 38% of all reported cases in 2016 being directed against them⁴⁴⁵. It is also worrying that amidst the post-Referendum spike in violence and abuse of Muslim women wearing the veil, key Brexit figure and leadership front-runner, Boris Johnson MP, wrote an article referring to women wearing the Burqa as ‘bank robbers’ and ‘letter boxes’, further legitimising their abuse within the Brexit climate⁴⁴⁶.

A report by the police watchdog (HMICFRS) warns of a potential rise in hate crimes following the UK’s formal departure from the EU⁴⁴⁷. The report found “large-scale failings” in the way hate crimes were dealt with as promised reforms had ‘not been started, nor delivered upon, and a national policy to visit victims has been effectively ignored’⁴⁴⁸.

Whilst Muslim women are particularly susceptible to rising hate crimes, this report notes migrant and BAME women are also extremely vulnerable to these attacks. This trend is a matter of urgent concern for minority women and other vulnerable groups, and is likely to worsen as the socio-political climate in the UK becomes increasingly divisive throughout the Brexit period.

Minority and Vulnerable Groups

This section will briefly address some of the ways disabled and LGBTQI+ women will be additionally impacted as a result of Brexit. These groups face multiple disadvantages as a result of their female identity and gendered position in society, in combination with their sexual/gendered identity or disability. These disadvantages are likely to worsen as a result of reduced support (through EU funding streams, welfare and public services, carer provisions, advocacy groups, healthcare access and standards, etc.) and a loss of secured rights and protections (through EU case law, the EU Charter of Fundamental Rights, ECJ jurisdiction, and future protections like the Accessibility Act and the Equal Treatment Directive).

LGBTQI+ Women

LGBTQI+ women face multiple intersecting threats as a result of Brexit, from rights to healthcare to rising homophobic abuse⁴⁴⁹. Women within the LGBTQI+ community face not only the potential erosion and loss of key rights and protections, but also the loss of the EU as a progressive force on both women’s and LGBTQI+ issues.

In terms of sexual and gender identity, the EU has provided various legal protections and initiatives aimed at improving LGBTQI+ rights, and in particular, advancing transgender and intersex equality. Article 10 of the Treaty on the Functioning of the European Union states that “in defining and implementing its policies and activities, the Union shall aim to combat discrimination based on [...] sexual orientation”⁴⁵⁰, and the European Charter of Fundamental Rights further protects sexual orientation rights⁴⁵¹. These rights and protections have been embedded and expanded within all levels of EU law, from primary and secondary

⁴⁴⁵ *ibid*

⁴⁴⁶ <https://www.telegraph.co.uk/news/2018/08/05/denmark-has-got-wrong-yes-burka-oppressive-ridiculous-still/>

⁴⁴⁷ <https://www.justiceinspectors.gov.uk/hmicfrs/wp-content/uploads/understanding-the-difference-the-initial-police-response-to-hate-crime.pdf>

⁴⁴⁸ <https://www.theguardian.com/uk-news/2018/jul/19/brexit-will-trigger-rise-in-hate-crimes-warns-police-watchdog>

⁴⁴⁹ https://research-information.bristol.ac.uk/files/154151661/PETER_DUNNE_PURE_VERSION.pdf ; <https://www.theguardian.com/commentisfree/2018/jan/22/eu-protection-lgbt-people-persecution-withdrawal-bill-lgbt-gay-rights> ; <https://www.tuc.org.uk/sites/default/files/BrexitLGBT.pdf>

⁴⁵⁰ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=EN>

⁴⁵¹ Article 21. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012P/TXT&from=EN>

legislation to CJEU jurisprudence⁴⁵². The 1996 landmark ruling by the ECJ (against the UK Government) on employment rights for transgender workers forced the UK to add gender reassignment to the Sex Discrimination Act⁴⁵³. These rights and protections, along with the 2010 Equality Acts, which protect both women and LGBTQI+ people will be left at risk to change and erosion by future Governments post-Brexit. The exposure of these rights to regressive change, many of which protect against discrimination and abuse, comes at a time when homophobia is on the rise, with a 147% increase in homophobic attacks in the three months following the referendum vote⁴⁵⁴.

Transgender people face particular difficulties in accessing healthcare and often suffer lower standards of care due to a lack of staff training and availability⁴⁵⁵. Whilst the threats of Brexit will disproportionately impact all LGBTQI+ people, the specific medical needs of transgender people may go increasingly unmet as the NHS faces increasing staff, funding and supply issues. Transgender activists have highlighted the risk of a no-deal Brexit disrupting medicinal supplies, as many transgender people rely on hormone blockers and hormones for their physical and mental health⁴⁵⁶.

As a result of the prorogation of Parliament (September-October 2019), a bill praised by LGBTI charity Stonewall on the 2021 census has collapsed. The bill would introduce two voluntary questions on sexual orientation and gender identity to the 2021 census. The Government has not made any binding commitments to protect this legislation, instead stating that “the new legislative agenda will be set out in the Queen’s Speech in October”⁴⁵⁷.

The Government has taken little action to address the threat of Brexit towards LGBTQI+ rights and wellbeing. Neither the Withdrawal Agreement nor the Government’s Equality Analysis of the Agreement⁴⁵⁸ include a single mention of LGBTQI+ issues or protections (or any variation in wording, e.g. LGBT, queer, sexual orientation, etc.). LGBTQI+ women are being doubly marginalized within the Brexit debate and process, as neither LGBTQI+ nor women’s issues and interests are being considered. They also face compounding threats due to the impact of Brexit on both women and LGBTQI members, and Government inaction in mitigating these threats.

Disabled Women

Disabilities groups have highlighted several areas for concern for people with disabilities post-Brexit, including issues relating to Brexit and the NHS, social care, welfare and public services, EU funding for support services and advocacy work, as well as key disability rights enshrined in the EU Charter and employment law⁴⁵⁹. These issues will adversely affect women with disabilities and the majority-female carers for disabled people. Women are more likely than men to suffer from some form of disability during their lives, and often face additional difficulties in relation to welfare cuts as well as maternity and childraising⁴⁶⁰.

The rights of people with disabilities will be affected by the loss of the EU Charter of Fundamental Rights, which includes the right to non-discrimination on the basis of disability (Article 21) which the UK does not

⁴⁵² Dunne, P. 2019. *Gender and Queer Perspectives on Brexit*. page 273

⁴⁵³ <https://www.tuc.org.uk/sites/default/files/BrexitLGBT.pdf>

⁴⁵⁴ <https://www.theguardian.com/society/2016/oct/08/homophobic-attacks-double-after-brexit-vote>

⁴⁵⁵ <https://www.mddus.com/resources/publications-library/gpst/gpst-issue-13/transgender-healthcare>

⁴⁵⁶ <https://www.pinknews.co.uk/2018/12/13/trans-drug-rationing-brexit-no-deal/>

⁴⁵⁷ <https://www.bbc.com/news/uk-politics-49655201>

⁴⁵⁸ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/629244/European_Union_Withdrawal_Bill_equality_analysis.pdf

⁴⁵⁹ <https://www.theguardian.com/social-care-network/2017/aug/14/brexit-disability-rights-eu-legislation;>

<https://www.disabilityrightsuk.org/news/2018/august/how-prepare-if-uk-leaves-eu-no-deal;>

<https://www.disabilityrightsuk.org/news/2016/september/our-response-jchr-rights-implications-brexit>

⁴⁶⁰ <https://www.womenlobby.org/Women-more-prone-to-disability-than-men-and-particularly-vulnerable-to>

have an equivalent protection for. EU Directives and case law provide key protections for disabled workers, particularly in the area of employment law. For example, the 2000 EU Employment Equality Directive led to the inclusion of disabled workers for UK employers with under 20 staff in the Disability Discrimination Act which protects disabled workers from employment discrimination⁴⁶¹. The Clear Company, a diversity consultancy working on the Government's Disability Confidence campaign, has warned that unless the Government prioritises the protection of EU safeguards for disabled workers post-Brexit, these workers are likely to see reduced employment opportunities and standards⁴⁶².

Disabled people will also miss out on further rights and protections provided by the recently adopted Accessibility Act⁴⁶³, which aims to make products and services more accessible for people with disabilities. UK negotiators have pushed for a weakened version of the text, which would prioritise avoiding "increased costs" or "undue burdens" for businesses above greater accessibility for disabled and elderly people⁴⁶⁴. The UK has not expressed any intention to incorporate this Act into UK law post-Brexit and depending on the timing of the UK's formal departure, it may be under no obligation to do so if it leaves before the transposition deadline (typically between 1-2 years). The UK may also miss out on progressive EU initiatives on disabled rights, such as the European Disability Strategy, established in 2010, which seeks to eliminate barriers to disabled people's access to education, employment and health. Disabled people are also currently entitled to benefits across the EEA, including PIP and carers allowance, entitlements which may be subject to change for UK citizens post-Brexit.

The EU currently provides support for disabled people through key funding streams, including £300 million for disability charities. Sue Bott, Deputy Chief Executive of Disability Rights UK expressed concerns over the loss of EU funding, stating that:

Disabled people make up a key group of those who benefit from European funding streams ... Without this kind of investment disabled people risk losing the help they need to live independently. Such schemes include community support for people who are socially isolated, skills development to improve employment prospects, and combatting mental health stigma⁴⁶⁵.

Women will also be affected as the primary carers of disabled people⁴⁶⁶. If funding for disabilities (as well as healthcare generally) is lost or diminished post-Brexit, carers and relatives of disabled people will most likely have to compensate by increasing their own (unpaid) caring responsibilities. Disabled people and their families may face economic hardship as they are forced to turn to private providers due to falling public service provisions and as (mostly female) relatives are forced into unpaid care work to account for the shortfall in provided carers.

EU case law also protects carers of disabled people. For example, in the case of *Coleman v Attridge Law*, the ECJ ruled in favour of disability carer's right to non-discrimination in employment after the UK's Disability Discrimination Act 1995 was ruled to only cover people with disabilities and not their carers⁴⁶⁷. The loss of the ECJ jurisdiction on such cases, and the uncertainty regarding EU case law after Brexit, means that key rights and protections for disabled people and their carers are at risk. The prevalence of women in both these groups is another example of how the wider implications of Brexit for vulnerable groups will disproportionately affect women, particularly those with multiple disadvantages.

⁴⁶¹ <https://www.disabled-world.com/disability/employment/uk/brexit.php>

⁴⁶² <http://www.theclearcompany.co.uk/news/Brexit%E2%80%99s%20impact%20on%20disability%20employment%20in%20the>

⁴⁶³ <https://ec.europa.eu/social/main.jsp?catId=1202>

⁴⁶⁴ [http://europeanmemoranda.cabinetoffice.gov.uk/files/2018/09/14799-15_Letter_to_Lord_Boswell_\(1\).pdf](http://europeanmemoranda.cabinetoffice.gov.uk/files/2018/09/14799-15_Letter_to_Lord_Boswell_(1).pdf)

⁴⁶⁵ <https://www.disabilityrightsuk.org/news/2018/february/brexit-threatens-key-funding-disabled-people>

⁴⁶⁶ UK Census 2011

⁴⁶⁷ <https://infacts.org/eu-has-protected-disabled-brits-when-uk-law-failed/>

Regional Effects on Women

In addition to women from minority backgrounds and identities, women from specific regions within the UK will be additionally or particularly affected by certain issues as a result of Brexit. This section briefly examines specific regional consequences of Brexit on women, including the impact of potential defunding for Welsh women and the challenges facing Northern Irish women's access to safe abortions under current plans for border checks between Northern Ireland and the UK mainland.

Welsh Women

In addition to the effects of Brexit on women across the UK, many of which will have a specific impact on Welsh women⁴⁶⁸, the loss of EU funding is a point of particular concern. Wales receives high levels of funding from the EU, which currently invests £370m a year in funding to the Welsh Government's European Structural and Investment Fund programmes (ESIF), equating to over twice as much funding per person than any other UK country⁴⁶⁹. This includes substantial funding for projects to address gender inequality, such as the Women Adding Value to the Economy project which tackles the gender pay gap in Wales⁴⁷⁰, and the Welsh Government's Parents, Childcare and Employment programme which support women towards gaining employment.

Chwarae Teg's Agile Nation 2 is a European Social Fund and Welsh Government funded program focusing on the improved position of women in the workforce across nine priority sectors in Wales. It includes both the Career Development Programme for Women and the Business Programme for SMEs and has a £6.3 million budget⁴⁷¹. Separate to ESIF funds, the European Commission-funded REC Programme (£364.3 million budget for 2014-2020) specifically includes key objectives to promote non-discrimination on the basis of sex, promote gender equality and advance gender mainstreaming, and prevent violence against women and girls⁴⁷². EU funding not only benefits women using the programs and services it supports, but also provides employment for women in the third-sector - which is made up of a predominantly female workforce in Wales⁴⁷³.

EU funding is also designed and implemented on gender mainstreaming principles. Equal Opportunities and Gender Mainstreaming (EO&GM) is one of three cross-cutting themes integrated into EU Funding programmes. EU Regulations on funding through the Common Strategic Framework requires that such funding must integrate Article 7 - the promotion of equality between men and women and non-discrimination⁴⁷⁴. Gender mainstreaming principles and practices have also been well-implemented in Wales in terms of development and delivery of CCTs of Equal Opportunities and Environmental Sustainability for the EU Structural Fund in Wales through a dedicated CCT Team within the Welsh European Funding Office⁴⁷⁵.

⁴⁶⁸ <https://www.cteg.org.uk/wp-content/uploads/2018/11/Briefing-Paper-Implications-of-Brexit-Aug-2018.pdf>

⁴⁶⁹ <https://researchbriefings.files.parliament.uk/documents/CBP-8527/CBP-8527.pdf>

⁴⁷⁰ <https://www.equalityhumanrights.com/sites/default/files/pressing-for-progress-womens-rights-and-gender-equality-in-2018-pdf.pdf>

⁴⁷¹ <https://www.agilenation2.org.uk/>

⁴⁷² <https://www.equallyours.org.uk/wp-content/uploads/2018/02/EDF-SHARED-PROSPERITY-FULL-REPORT.pdf>

⁴⁷³ <https://hansard.parliament.uk/Commons/2017-07-19/debates/EFFA5002-B594-4CAC-9B3E-AFDB8FAAAA30/Queen%27SSpeechImplicationsForWales?highlight=wales%20women%20brexit#contribution-E0ECB69D-56F6-4360-9467-71BB174B7B94>

⁴⁷⁴ <http://senedd.assembly.wales/documents/s71761/ELGC5-05-18%20Paper%2019%20-%20Letter%20from%20the%20Leader%20of%20the%20House%20and%20Chief%20Whip.pdf>

⁴⁷⁵ <https://www.equallyours.org.uk/wp-content/uploads/2018/02/EDF-SHARED-PROSPERITY-FULL-REPORT.pdf>

Welsh politicians have raised concerns that UK replacement funding will not be distributed as it is currently through the EU, and that regions like Wales could see a sharp fall in funding⁴⁷⁶. Under both no-deal and Withdrawal agreement conditions, Wales is set to lose around £680 million per year in EU funding and investment. The Welsh External Affairs and Additional Legislation (EAAL) Committee and the Welsh Equality, Local Government and Communities (ELGC) Committee, supported by First Minister Mark Drakeford, strongly recommended that UK replacement funding should be administered by the Welsh Government “to ensure that it is sensitive to local needs and inequalities”⁴⁷⁷. At present, the UK Government has not published details of the fund, the absence of which has been largely criticised. The amount, allocation and responsibility for administering the fund to Wales has not yet been confirmed, causing significant uncertainty and challenges to Welsh programmes and services which rely on EU funding and a ongoing risk that funding will be cut, UK administered, redistributed contrary to gender equality objectives, and fail to integrate gender mainstreaming principles.

Welsh civil society organizations have actively utilised European networks to promote a strong Welsh voice and agenda on gender equality through organizations like the European Women’s Lobby (EWL) and Social Platform, allowing Welsh perspectives and specific issues to avoid being eclipsed by UK issues. Whilst membership of WEN Wales to EWL is secure post-Brexit due to the latter’s decision to change its internal rules to accommodate post-Brexit cooperation, Welsh actors will likely encounter additional barriers and gaps in accessing and collaborating with European networks post-Brexit. Under a changing legislative and policy environment in the UK post-Brexit and a loss of EU funding, access to European networks and organizations will be critical for gender equality progress, yet face restrictions and difficulties post-Brexit⁴⁷⁸.

Regarding equality legislation in Wales post-Brexit, there is a concern that whilst Wales generally has more progressive policies and legislation on gender equality, the areas of equality and human rights are generally not devolved to the National Assembly for Wales. The loss of the European Charter, which the Welsh Government opposed the exclusion of, and the EU protection floor will likely pose a significant challenge to Welsh equality standards in the context of a deregulation-favouring UK Government.

The Gender pay gap widened in 2016-2017 on average across the UK. In Wales, the gap widened in 2015-2016 and 2017-2018⁴⁷⁹. Welsh industry experts suggest that companies in Wales are not doing enough to address the gender pay gap, which may have widened further since 2018. Ann Francke CEO of The Chartered Management Institute (CMI) claimed that “Brexit has taken up all the breathing space. The Gender Pay Gap been starved of oxygen in businesses and boardrooms up and down Wales”⁴⁸⁰. Welsh equality organization Chwarae Teg also found that women account for just 6% of chief executives in the top 100 businesses in Wales⁴⁸¹.

Scottish Women

Scotland voted most overwhelmingly in favour of remaining within the European Union, with 62% of Scots voting to stay in the EU. As with Northern Ireland (voted 56% in favour of remaining) and Wales (which, whilst voting in favour of Brexit by 52.5%, evidence suggests that Welsh voters now favour remain⁴⁸²), there are concerns that an England-centric Brexit led by the UK Government fails to account for the remain-stance of devolved Governments and citizens of devolved regions. This is mostly strongly felt in Scotland,

⁴⁷⁶ <https://www.bbc.com/news/uk-wales-politics-46782174>

⁴⁷⁷ <https://seneddresearch.blog/2018/12/10/equality-and-human-rights-in-wales-after-brexit-an-update-2/>

⁴⁷⁸ <https://ukandeu.ac.uk/partners-in-equality-the-eu-and-devolution/>

⁴⁷⁹ <https://statswales.gov.wales/Catalogue/Business-Economy-and-Labour-Market/People-and-Work/Earnings/genderpaydifferenceinwales-by-year>

⁴⁸⁰ <https://www.dailypost.co.uk/news/north-wales-news/gender-pay-gap-wales-may-16069299>

⁴⁸¹ <https://www.bbc.com/news/uk-wales-46975740>

⁴⁸² <https://www.walesonline.co.uk/news/wales-news/remain-10-percentage-point-lead-16527262>

which has both a strong remain-stance from the Scottish Government and based on the voting patterns of Scottish citizens.

Research conducted by the Scottish Government found that the UK Government's proposed Brexit Deal (under the Withdrawal Agreement) could see a 6% fall in GDP by 2030, amounting to over £1,600 per person in Scotland⁴⁸³. High levels of poverty in deprived areas of Scotland, like Paisley Ferguslie in Renfrewshire and Carntyne West and Haghill in Glasgow, are likely to feel the brunt of the economic impact of Brexit⁴⁸⁴. Whilst many deprived regions, particularly Glasgow and Inverclyde (both of which voted around 3:1 in favour of remain), have seen improvements since 2012, the economic effects of Brexit risk reversing some of this progress. As discussed previously in this report, negative economic effects of Brexit on low-income households will disproportionately affect women, as both the majority of heads of poor households and the shock-absorbers of family poverty.

Scotland is generally viewed as having a more positive outlook on migration than much of the rest of the UK. It also has the second highest proportion of foreign-born residents and citizens, after England, at 8% of the total population⁴⁸⁵. Following the UK Government's proposals on immigration, set out in its December 2018 White Paper on The UK's Future Skills-Based Immigration System, the Scottish Government published a report by the Expert Advisory Group on Migration and Population in order to assess the impact of these proposals on Scotland's economy, population and society⁴⁸⁶.

The report estimated a 50-80% reduction in EU net migration based on the White Paper proposals, as well as having a "pronounced gender effect, with proportionally fewer women able to meet the salary threshold, especially in rural areas and areas of disadvantage". The report further stated that "non-migrant women would also be especially affected by labour shortages in social care, as female friendly members would be most likely to bear the burden to gaps in care provision"⁴⁸⁷. The report further highlights the economic disadvantages of increased burdens of unpaid care on women as well as the fiscal effects of this shift as reduced income tax revenues, a need for increased welfare spending, and higher healthcare costs.

Women's health services in Scotland will be on the front line of those deprioritised in the event of a no-deal Brexit. Cervical screening, routine post-natal checks and long-acting contraceptive treatments, all of which solely affect women, are among those which "would be deferred first" if the UK leaves the EU without a deal, according to information from NHS Lothian. Dr Patrycja Kupiec, Director of the Young Women's Movement Scotland, expressed 'disappointment' that "women's health services have been ranked as non-priority in the event of a no-deal Brexit ... the women of Scotland deserve better than this"⁴⁸⁸. As discussed previously in this report, women experience higher levels of Brexit-related stress than men, which carries serious mental and physical health consequences. As a group young, well-educated Scottish women experience the highest levels of stress as a result of Brexit compared to any other group⁴⁸⁹.

⁴⁸³ <file:///C:/Users/hcman/Downloads/deal-brexit-economic-implications-scotland.pdf>

⁴⁸⁴ <https://thirdforcenews.org.uk/tfn-news/scotland-in-2019-a-country-ravaged-by-poverty-and-inequality>

⁴⁸⁵ <https://researchbriefings.files.parliament.uk/documents/SN06077/SN06077.pdf>

⁴⁸⁶ <file:///C:/Users/hcman/Downloads/uk-immigration-policy-leaving-eu-impacts-scotlands-economy-population-society.pdf>

⁴⁸⁷ <file:///C:/Users/hcman/Downloads/uk-immigration-policy-leaving-eu-impacts-scotlands-economy-population-society.pdf>

⁴⁸⁸ <https://www.edinburghnews.scotsman.com/health/nhs-lothian-brexit-plans-would-hit-women-hardest-1-5001711>

⁴⁸⁹ <https://www.independent.co.uk/life-style/health-and-families/health-news/brexit-most-stress-young-well-educated-scottish-women-study-physiological-society-modern-brain-a7631651.html>

Northern Irish Women

Women in Northern Ireland also face particular challenges as a result of Brexit. BPAS head of policy research, Katherine O'Brien, has raised concerns regarding the implications a border between Northern Ireland and the rest of the UK could mean for Irish women seeking an abortion in mainland Britain. The introduction of passport checks for such crossings "could prevent women who don't already have passports from travelling at short notice", instead facing a £80 bill and 6 week waiting time⁴⁹⁰. A hard border between Northern Ireland and the rest of the UK would therefore have serious implications for Irish women's access to safe abortions, unless proactive steps are taken by the Government to safeguard this access.

Similarly to Wales, Northern Ireland also receives a substantial amount of EU funding for gender equality projects and support services for women. In particular, the PEACE fund in Northern Ireland directly funds projects which focus on human rights, violence against women, hate crime and discrimination⁴⁹¹. Loss of this funding could undermine women's ongoing role in the Northern Ireland peace process, as well as have a negative impact on the progress of projects which tackle violence and discrimination against women in Northern Ireland.

Northern Ireland is also more dependent upon EU equality law than the rest of the UK as its domestic laws on equality are currently lagging behind the 2010 Equality Act. This dependence means that there is an increased risk to current equality standards and rights of erosion by future Governments and Northern Irish lawmakers post-Brexit⁴⁹². There is therefore an added risk that gender equality in Northern Ireland will not only fall behind EU standards, but behind UK standards as well⁴⁹³.

⁴⁹⁰ <https://www.refinery29.com/en-gb/2019/01/221450/brexit-women-uk>

⁴⁹¹ page 4 <https://www.equallyours.org.uk/wp-content/uploads/2018/02/EDF-SHARED-PROSPERITY-FULL-REPORT.pdf>

⁴⁹² page 11 <https://www.fawcettsociety.org.uk/Handlers/Download.ashx?IDMF=e473a103-28c1-4a6c-aa43-5099d34c0116>

⁴⁹³ page 17 <https://www.fawcettsociety.org.uk/Handlers/Download.ashx?IDMF=e473a103-28c1-4a6c-aa43-5099d34c0116>

Conclusion

This report highlights the legal, economic, political, and social implications of Brexit which specifically and disproportionately disadvantage women. Women are being expected to shoulder the costs of a political decision in which their voices and interests have not been fairly represented. Within the grand scheme of Brexit, women's rights and labour have been simultaneously framed as both expendable and as not worthy of mainstream attention.

Future economic policies and trade agreements are set to reprioritise deregulation at the expense of hard-fought women's employment rights and equality standards. Gender-blind austerity measures are expected to continue at the vast expense of women, who are in turn expected to fill the health and social care gaps with their unpaid labour, widening the gender gaps for wealth, time, pay and pensions. Women from poor socio-economic backgrounds and BAME women are most at risk of the economic impact of continued austerity, defunding of key support services, and rising levels of social and racialized tensions. Female EU nationals are being forced to apply to keep their rights and homes through a system which is not designed for them. Yet the Government continues to measure these women against a model of 'productive man' which 'systematically disadvantages women'. Calls for legally binding guarantees that rights and equality laws will not be rolled back have been widely ignored, whilst calls for the scrapping of these rights and laws by Government and Brexit figures have gone largely uncontested by the (former) Prime Minister and her Cabinet. Men, including those with records of regressive and misogynistic policies and views, have been appointed to key decision-making positions on Brexit at around ten times the rate of women. Media coverage focuses on a handful of white male conservative politicians and women's voices are threatened by rising rape threats and sexist abuse. Parliamentary debates are still dominated by male voices and the issue of women and Brexit has never risen above sparse interventions by female figures, attracting dismissal rather than engagement from the Government. Authoritative voices on women and equality, such as the EHRC and Women's Committee, have reported their disappointment at the 'unacceptable' lack of Government engagement with their recommendations and its abject refusal to take the clear, necessary steps to protect women and equality from the harmful effects of Brexit. Throughout the past 3 years, there has been little to no Government attention or action in response to the mounting evidence that women will be the ones to bear the brunt of Brexit, from their rights and prosperity to the slowing progress of gender equality.

There is a clear disjuncture between the range and depth of issues and findings by women and equalities groups, and the chronic exclusion of these issues in media coverage, public debate, and political engagement. Whilst this gap is consistent with the deep-seated exclusion of women's voices and interests, from women's invisible labour to their political marginalization, this report finds that it is exacerbated within the Brexit debate and process. The myth that Brexit is gender-neutral has been widely and successfully deployed, primarily through the passive exclusion of 'women' and 'gender' as relevant perspectives, but also through the active silencing of women's voices and interests as either 'beneath' or 'oppositional' to mainstream, 'proper' discussions of Brexit.

The work by women and equalities groups to illuminate the far-reaching and often complex implications of Brexit on women is invaluable. The ongoing failure of media and political institutions to listen and respond to the research and proposals of these groups has been severely disappointing. Without engagement from these institutions, particularly from the Government itself, the UK will be on track to fall significantly behind its previous trajectory on gender equality progress and the mounting costs of Brexit will hit women with full-force.

The challenges facing women and gender equality as a result of Brexit are profound and far-reaching. If the UK is to maintain and further progress the rights, prosperity and equality of women, immediate and decisive action must be taken. As the pursuit of Brexit becomes increasingly divisive and complex, and as the

deprioritisation of women's voices and interests becomes increasingly entrenched, the costs of Brexit for women will rise. Addressing the impact for women is not about 'adding' gender to Brexit, but about recognising issues which are currently being ignored in the public conscience, but nevertheless persist in reality. This report consolidates and contributes towards the growing body of evidence against the gender-neutral Brexit myth. Debunking this myth is the first step towards the critical process of addressing and acting upon the discriminatory pursuit of a Brexit process which systematically disadvantages women.