



#FaceHerFuture Briefing Paper

Questions that remain for women

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Contact: Sanmeet Kaur

Policy and Public Affairs Officer, Fawcett Society

sanmeet.kaur@fawcettsociety.org.uk

020 3598 6154

About us

The [Fawcett Society](#) is the leading UK charity campaigning for women's rights and gender equality. In response to the UK's decision to leave the EU, the Fawcett Society launched the [#FaceHerFuture](#) campaign, which brought together over 20 women's, girls', and equalities organisations, recognising the outcome of the referendum as a call to action to defend the rights of women and girls and an opportunity to set a positive agenda for progress.

Summary

On 26th June 2018, the European Union (Withdrawal) Act 2018 (EUWA) received Royal Assent, following almost eight months of debate in Parliament. Over the course of the Bill's passage through Parliament, the #FaceHerFuture coalition campaigned for key priorities areas including safeguarding employment, equality and human rights, replicating VAWG cooperative mechanisms and funding and ensuring Parliament has the information it needs to keep pace with the EU.

During the House of Commons and House of Lords committee stages, the coalition circulated briefings to all MPs calling for their support. We were successful in getting cross-party support from a number of MPs and peers who either signed the amendments we were leading on or spoke in favour of the issues we raised. During the House of Commons committee stage, an important concession in relation to equality law was secured, with the support of Rt Hon Maria Miller MP. The amendment requires Ministers who are exercising their powers under particular clauses to make a statement before a draft instrument is made. This includes whether the instrument amends, repeals or revokes any provision of equalities legislation.

As a member of the [Brexit Civil Society Alliance](#), we have also worked collectively with other civil society organisations to raise concerns about delegated legislation and the need to enhance parliamentary scrutiny. We therefore welcomed the Government's introduction of a sifting committee – the European Statutory Instruments Committee – which will examine each Government proposal for a “negative procedure” statutory instrument, and recommend whether it should be upgraded to the “affirmative” procedure, whereby the proposed legislation has to be approved by a vote in both Houses.¹

¹ 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-parliament-2017/exiting-eu-scrutiny-delegated-legislation-report-published-17-19/>

Following the publication of the Withdrawal Agreement, it is clear that women are still missing from the Government's agenda on Brexit. Whilst the Agreement does reference some directives on women's rights in the appendix, there is no reference to women in the main body of the text. This briefing seeks to reaffirm and set out our primary areas of concern and the questions that remain for women.

Questions that remain for women

1. What is the Government doing to ensure our rights as set out in equality, employment and human rights legislation are protected?
2. How will the UK replicate violence against women and girls (VAWG) protections and sustain funding currently provided by the EU?
3. What measures will the Government be taking to ensure we are keeping pace with the EU to maintain gender equality?
4. How will the Government ensure the EU Settlement Scheme works for vulnerable women and girls and what exemptions will be made for them?
5. How will the Government ensure that the economic impact of Brexit does not have serious implications for women?
6. What is the Government doing to ensure that women are represented at every level of the Brexit negotiation and transition process?

I. What is the Government doing to ensure our rights as set out in equality, employment and human rights legislation are protected?

We have previously raised concerns about the potential for delegated powers in the Withdrawal Bill to be used to amend or repeal the Equality Acts 2010 and 2006, other equality and human rights legislation, and employment rights law which is essential to protecting the rights of women at work. Key legal rights protecting women at work remain at risk, including:

- The Working Time Directive: Among other important employment rights, the right to paid annual leave for all UK workers originates in the EU Working Time Directive. Two million workers gained entitlements to paid annual leave, many of which were part-time women.
- Pregnancy and maternity rights at work: The right to paid time off for ante-natal appointments, and the enhanced health and safety procedures employers must follow with regards to new and expectant mothers, were implemented in the UK following the passage of the EU Pregnant Workers Directive 1992.²

The Prime Minister has refused to rule out scrapping the Working Time Directive, the Agency Workers Directive, or the Pregnant Workers Directive.³ When responding to amendments to safeguard maternity rights, the responsible Minister, Lord Duncan of Springbank, gave categorical reassurance that there shall be no erosion of the working time directive.⁴ However, this provides no legislative certainty. The right to leave to care for an ill child, maternity rights and part-time worker rights all remain at risk.

The EU has acted as a protective 'backstop' on equality and human rights. It is imperative that equality and human rights legislation is protected once the UK leaves the EU and that equality and human rights protections are not rolled back. Once the UK leaves the EU, the Charter of Fundamental Rights will cease to apply. Independent analysis from the Equality and Human Rights Commission (EHRC) found that without the Charter we would see a serious [dilution of our rights](#), despite the Government's [contention](#) that we would not. There also remains a lack of clarity for the

² TUC, 2016, p.6.

³ Hansard, 18th December 2017. Cols. 748, 753, 757, 762, 768.

⁴ Hansard, 05/03/18, col. 952.

courts on what to do about EU case law. EU case law, among other things, strengthened and extended maternity rights.

2. How will the UK replicate violence against women and girls (VAWG) protections and sustain funding currently provided by the EU?

European Commission funding, through streams such as the DAPHNE fund, the Rights, Equality, and Citizenship (REC) Fund, and the European Social Fund (ESF), supports a wide range of research and service delivery aimed at tackling violence against women and girls in the UK. Of 140 projects supported by the £364m REC programme since 2014, just over one third had a UK lead or partner. It is essential that the Government sustains funding for VAWG and women's services currently provided by the EU. We are calling for a full assessment of and replication through the UK Shared Prosperity Fund of VAWG funding.

Co-operation between EU member states has meant that victims of crime have had enhanced rights and protections. Certain EU Directives are particularly important in terms of protecting rights of women and girl victims.

European Protection Orders (EPOs) which grant victims of violence equivalent protection against a perpetrator across the EU will no longer automatically be available to UK citizens or EU citizens in the UK, after Brexit, unless the Government commits to 'opt-in' to this protection after 2020. The 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. Despite this, the Government did not accept amendments which would replicate EPOs on the part of the UK and which would require the Government to report to Parliament on progress made to replicate other cross-border VAWG protections.⁵ We welcome the inclusion of EPOs within the transition period within the Withdrawal Agreement, but this must continue to be part of arrangements after 2020.

Additionally, a cross-party amendment on maintaining cooperation to enforce child maintenance claims that cut across national borders was also not accepted by the Government.⁶ The Government have, however, committed to working with the EU to agree the most effective rules in this area. It is essential that the Government ensures that neither women nor children are disadvantaged following the breakdown of a relationship, and that child maintenance orders can be enforced across borders, with limited interference and cost.

Ahead of the House of Commons and House of Lords second readings of the EU Withdrawal Bill, Fawcett campaigned for amendments to the Bill related to VAWG funding and cross-border cooperation. Amendments on VAWG and cross-border child maintenance were tabled in the House of Lords by Baroness Kennedy of the Shaws and signed by Baroness Burt of Solihull and Lord Russell of Liverpool. Many other peers, including Baroness Butler-Sloss, Baroness Stroud and Baroness Thornton also spoke in favour of the amendments during the committee stage debates. However the amendments were not pushed to a vote and we are therefore reaffirming our commitment to continue campaigning on this front.

3. What measures will the Government be taking to ensure we are keeping pace with the EU to maintain gender equality?

We need a broad commitment from the Government to set a positive post-Brexit agenda for the promotion of women and girls' rights and gender equality. Ensuring that women's service providers, including women's refuges and other domestic abuse services, receive stable funding must remain on the agenda. The UK Shared Prosperity Fund must ensure adequate funding for women's services.

⁵ Hansard, 25/04/18, col.1597-1605.

⁶ Hansard, 30/04/18, col. 1980-1983

There remains a huge danger that the UK may fall behind the EU on gender equality and women's rights. The EU are already considering measures that would likely promote gender equality that the UK will miss out on, such as a [Directive on work-life balance for parents and carers](#), which would provide for four months paid non-transferrable leave for fathers. We must ensure that parliamentarians are provided with the information necessary to keep pace with the EU *if they so choose*. This is necessary if the UK is to be the best place in the world to be a woman.

4. How will the Government ensure the EU Settlement Scheme works for vulnerable women and girls and what exemptions will be made for them?

Once the UK leaves the EU, all non-Irish EU citizens and their dependents will need to apply for 'settled status' to secure their right to stay in the UK after the end of the implementation period on 31 December 2020. This includes providing evidence of five years' continuous residence in order to qualify for settled status before the cut-off date. The government has announced a six-month 'grace period', meaning those residing in the UK before the transition period will have until 30 June 2021 to apply. However, if they fail to do so, or their application is refused, they will be deemed illegal residents. Research by the Migration Observatory identified categories of people at risk through this process, and women and girls are overrepresented among many of the groups identified.⁷

Female EU victims of domestic abuse and other forms of VAWG are at greater risk of failing to access their settled status than male EU migrants and are likely to face specific difficulties accessing documentation providing their right to remain. Victims of domestic abuse may struggle to prove their residency, as perpetrators routinely use immigration status as a means of coercive control (such as threats of deportation to force victims to stay within a relationship), and abuse is often characterised by control of both money and documentation. Women depending on partners or ex-partners for evidence may therefore find it harder to prove their right to settled status. Women who are victims of trafficking or modern slavery in particular will struggle to evidence their right to remain as often they have little or no access to resources, and in some cases have their passports and ID taken away from them.⁸ The Government need to ensure that vulnerable women receive the additional advice and support they require and that there is evidential flexibility in cases where a victim is unable to prove five years' continuous residency.

Analysis from New Philanthropy Capital (NPC) also notes other groups of women who would be identified as at risk of failing to prove their right to remain. 260,000 EU women in the UK are deemed as 'economically inactive' and of those, 139,000 women are 'economically inactive' due to caring responsibilities. This group may have difficulty providing evidence of residence especially if they lack HMRC/DWP records or if evidence of residence is in their partner's name. Those who are employed may also struggle to provide records, with female EU migrants more likely to be employed in sectors where work is informal and poor practices, often resulting in little paper trail. Women also make up 61% of long-term EU migrants who are amongst the least likely to realise they need to register.⁹ We are calling on a commitment from the Government to ensure that women will not be disproportionately impacted by the settlement scheme and that adequate adjustments are made for the disadvantages they may face.

There is also a concern of staff shortages if a £30,000 minimum salary cap is imposed on foreign workers post-Brexit, with the risk of traditionally female-dominated sectors such as social care, being hit the hardest. The adult social care workforce is 82% female, with the proportion of those in direct-care provision being even higher.¹⁰ A recent report published by [Independent Age](#) highlighted

⁷ 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-failing-to-secure-their-rights-after-brexit/>

⁸ NPC, *How the EU settlement scheme affects women and girls*, Oct 2018

⁹ NPC, *How the EU settlement scheme affects women and girls*, Oct 2018

¹⁰ Report of the PSA Commission on Care, *Towards a New Deal For Care and Carers*, 2016

that any restrictions to the migration status of European citizens would likely reduce the number of migrant workers in the social care sector, making it harder to recruit and retain the necessary numbers of staff.¹¹ The Department for Health also estimates that there could be 28,000 fewer workers in the social care sector in England five years after leaving the EU and has warned: 'If 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.'¹² There is a concern that women will be disproportionately affected because of their role as the main providers of unpaid and paid care and are more likely to be users of care services. We are therefore calling on the Government to ensure that women are not disproportionately impacted by a potential labour shortage post-Brexit.

5. How will the Government ensure that economic impact of Brexit does not have serious implications for women?

In March 2018, the Women's Budget Group and the Fawcett Society published the [first independent report](#) looking at the economic impact of Brexit on women. There remains strong evidence that the overall impact of Brexit on the UK economy will be negative, with a 'no deal' scenario being the most damaging. This would have serious implications for women as workers, consumers and (if the Government was to respond by cutting public services) as users of public services. It is vital that the Government considers key questions about the potential gendered impact of Brexit in order to inform policy development and the development of suitable mitigating strategies to be implemented by the Government. We are calling for explicit commitment from the Government to ensure that trade agreements and policies reflect gender equality objectives and do not undermine the realisation of women's economic rights to be a highly complex process requiring specialist knowledge.

6. What is the Government doing to ensure that women are represented at every level of the Brexit negotiation and transition process?

Given the wide-ranging implications of Brexit for women's rights and gender equality in the UK, it is essential that women are represented at every level in the Brexit negotiation and transition process. However, across the three Government departments tasked with negotiating the terms of the UK's exit from the EU, namely the Department for Exiting the EU (DexEU), the Department for International Trade (DIT) and the Foreign and Commonwealth Office (FCO), only two of the 15 Ministers are women (Harriet Baldwin MP and Baroness Fairhead CBE), meaning only 13% of the responsible Ministers are women – a severe underrepresentation.

In June 2017, DexEU released a list of individuals making up the UK negotiating team. Of the nine senior officials listed, only one is a woman (Catherine Webb, Director of Market Access and Budget at DexEU).¹³ Therefore only 11% of the senior civil service negotiating team are women. Taking into account Ministers and civil servants, just 12% of those at the top table are women, despite 51% of the population and 32% of Parliament being women. We are calling on the Government to reflect gender equality objectives, involve women's rights campaigners with specialist knowledge, and ensure that women's economic rights are not undermined.

¹¹Independent Age, *Brexit and the future of migrants in the social care workforce*, <https://independent-age-assets.s3.eu-west-1.amazonaws.com/s3fs-public/2016-09/IA-Brexit-Migration-report.pdf>

¹² Department of Health, Nov 2017, *Evidence on EEA nationals working within the health and care system, focusing on England* https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/693468/Department_of_Health.pdf

¹³ 'UK Negotiating Team Biographies', Department for Exiting the European Union, 2017. Available here: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/620076/Biographies_of_the_Civil_Service_representatives_for_the_negotiations_with_the_EU.pdf

Appendix I: List of #FaceHerFuture coalition members

Agenda
Birthrights
BPAS (British Pregnancy Advisory Service)
Centre for Gender Equal Media
Centre for Women and Democracy
Coventry Women's Voices
Equality and Diversity Forum (EDF)
Fawcett Society
Fearless Futures
FiLia
Girlguiding UK
IKWRO
Latin American Women's Rights Service
Maternity Action
National Alliance of Women's Organisations
Rights of Women
Tell MAMA
The Diana Award
Womankind
Women's Budget Group
Women on Boards
Women's Aid Federation of England
Women's Resource Centre
Working Families