



# Assaults on emergency workers sentencing consultation GMB Union response

## Introduction

GMB Union is pleased to respond to the Ministry of Justice's rapid stakeholder consultation on the proposal to raise the maximum penalty for common assault against emergency workers to two years.

GMB is a general union which represents more than 600,000 people across the public and private sectors. We represent workers in a wide range of NHS roles. GMB is the largest union in ambulance services.

GMB supports tougher sentences for those who assault emergency workers, which must be accompanied by an increase in prosecution rates and fundamental improvements to employer support for victims of assault.

This document is informed by the results of an ambulance members' survey that was conducted for the purpose of responding to this consultation. Due to the tight submission timetable, this survey was open for a limited window. Quotes and statistics are drawn from this survey unless otherwise stated.

## Background

Violence against ambulance workers is a widespread and, shamefully, still a growing problem. GMB was proud to campaign for the passage of the Assaults on Emergency Workers' (Offences) Act 2018 ('the Act'),<sup>1</sup> and to help secure a Report Stage amendment that widened the Bill's scope to include all categories of physical assault.<sup>2</sup>

The rise in the risk of assault is an important factor in the overall strain on ambulance services. Freedom of Information Act research conducted by GMB revealed that NHS employers recorded a 34 per cent increase in physical assaults against ambulance workers between 2013/14 and 2016/17. An average of 8.2 assaults a day were recorded in 2016/17, and due to high non-reporting rates the true figure will have been significantly higher. 37 per cent of ambulance workers have considered leaving their jobs due to the threat of assault, and 39 per cent report experiencing Post-Traumatic Stress Disorder while working in ambulance services.<sup>3</sup>

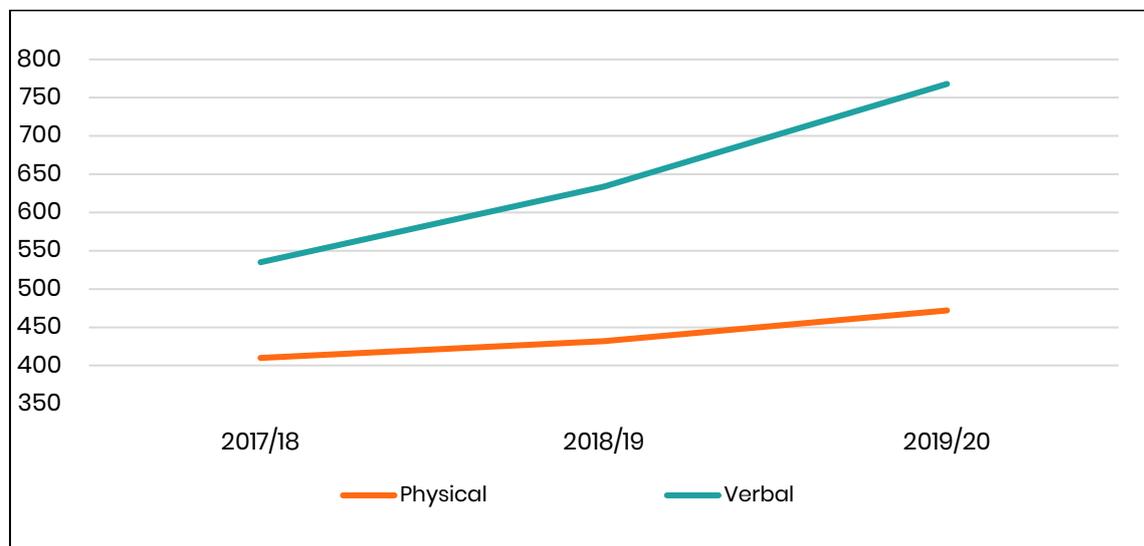
There is strong evidence that the passage of the Act has not been sufficient to address the rising tide of violence. **98 per cent** of our members report that there has

been no reduction in the volume of assaults since the legislation came into force in November 2018. **74 per cent** of our members report having been assaulted (or threatened with assault) in the line of duty since November 2018.

Official nationally reported figures have been no longer available from the year 2015/16, following the abolition of NHS Protect. In March 2018, the Department of Health and Social Care stated that: ‘the Department is working with the NHS on a new data collection for violence against and abuse of NHS staff which should be introduced from 2019.’<sup>4</sup> It is disappointing that this commitment has not been fulfilled. Clear, standardised national reporting of violence against NHS workers must be restored at the earliest opportunity.

Where more timely official figures are available (in the case of West Midlands Ambulance Trust), they corroborate our members’ testimony that violent attacks have not abated since November 2018 (and have risen). According to the latest available figures, the number of recorded physical assaults against Trust employees rose by 15 per cent (and the number of recorded verbal assaults rose by 44 per cent) between 2017/18 and 2019/20. The overwhelming majority of assaults are attributed to ‘intentional’ factors (as opposed to reported diminished capacity on the part of the assailant – for more details, please see the appendices to this submission).

#### Recorded assaults against West Midlands Ambulance Service staff



#### Raising the tariff

Our members’ experience and available data indicate that – while the introduction of the legislation was welcome – the Act has not proved to be a sufficient deterrent in practice. **97 per cent** of our members told us that a one-year maximum sentence

for common assault against an emergency worker was not a strong enough deterrent.

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*'There is no deterrent and assaults are either increasing or are just being reported more. The effect of assaults is not just the physical injuries, it is so much more.'*

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Our members strongly supported the principle of tougher sentencing limits. **54 per cent** said that they supported raising the limit to two years, and a further **44 per cent** said that the limit should be higher than two years.

Consequently, GMB supports the proposal to raise the sentencing limit to two years. However, the law will only be as strong as the extent to which it is enforced. GMB is clear that tougher sentencing rules are part of the solution, but they must be accompanied by wider reforms.

### **Wider issues**

GMB made a number of recommendations in its 2018 research report *In Harm's Way* on the non-legal changes that were required to reduce the risk of violence. It is disheartening that, two years on, so little progress has been made. This section is not intended to repeat points that have been made previously, rather it highlights a number of recurring points that were raised in our members' survey.

### **Lack of enforcement**

A number of our members expressed frustration with the lack of support provided to them when they wanted their assailants to be prosecuted. A number of members commented that police support could not be obtained even when it was known that ambulance workers were faced with dangerous situations. Apparent deficits of will, resources, and co-ordination between employers, the police, and the Crown Prosecution Service were also identified as ongoing problems. It is disappointing that, while comments were sought, workers' representatives were not invited to be party to the January 2020 national joint agreement on offences against emergency workers on equal terms with employers and agencies.<sup>5</sup> The effectiveness of the new agreement should be subject to careful monitoring and evaluation.

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*'He made threats to stab me and my family but did not serve a custodial sentence'*

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GMB has previously spoken out against the lack of effective legal deterrents even when a prosecution can be brought. Prior to the introduction of the Act, out of 113 physical assaults recorded by South Western Ambulance Trust where the staff member requested that police action be taken, just one case resulted in an identified custodial sentence.<sup>6</sup> The latest available data from the Ministry of Justice suggests that in the calendar year 2019 to September, just 14 per cent of successfully mounted prosecutions for assaults on emergency workers resulted in an immediate custodial sentence. The average length of custodial sentences imposed in September 2019 was 2.5 months (this figure was broadly consistent with previous months).<sup>7</sup>

Assaults at work can have a devastating impact on mental and physical health, general wellbeing, and family life. Many of our members have sought justice at great effort (and sometimes in the face of employer resistance), only to encounter further negative experiences due to the failings of the system, without a satisfactory resolution. If the sentencing limit is raised to two years, then that new limit must be applied regularly, in accordance with the severity of the crime, with publication of sentences to raise awareness and increase the deterrent effect. More work is needed to improve prosecution rates and improve support for victims of violent crime.

### Scope of the Act

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*'[The Act] should not only [cover] physical assault but also verbal.'*

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A number of our members raised the problem of non-inclusion of verbal assaults in the legislation. This issue is encountered by all our members in patient-facing roles, and verbal assaults are experienced in a particularly concentrated form by our members who work in 999 services. GMB would welcome further engagement with the Ministry of Justice on the existing scope of the Act, and the potential for legislative changes to bring verbal assaults under the parameters of the legislation.

### Lack of employer support

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*'I was pressured into returning to work early after continuously being threatened with capability.'*

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GMB has long campaigned against a generalised lack of employer support for the victims of assaults. While there are individual examples of supportive line managers, our experience is that the increased strain on ambulance services as a whole has translated into the application of undue pressure on victims of assault to return to work. In some cases, this has taken the form of pressurising people to return from sick leave too early (even in contravention of medical or occupational therapist advice). In other cases, members have been pressurised to complete their shift following an assault, which is often compounded by inadequate or absent after-care. Members also reported that Trusts and other agencies were often reluctant to support action when it was believed that assailants had mental health concerns (even when there was no evidence that they lacked criminal capacity).

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*'Many think because someone is drunk or on drugs, [the violence is] because they're intoxicated and don't follow it up. [Employers] don't always allow staff time to record the incident, due to demand.'*

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Only half of GMB members who were assaulted since November 2018 felt that they were adequately supported by their employer after the assault occurred. The deficiencies in employer support form one of the most important barriers to creating a more effective and humane system for protecting ambulance workers.

## Conclusion

GMB supports the proposal to impose tougher sentencing limits on assailants who commit common assaults against emergency service workers.

However, changes to the law will only be effective if the appropriate agencies are willing and resourced to enforce them. There are multiple cultural and resourcing barriers within the NHS that are putting workers at avoidable risk and preventing the service of justice.

GMB has long campaigned and undertaken research on the issue of violence against emergency service workers. In recent years, this work has been led by our In Harm's Way working group. We would welcome further discussions with the Ministry of Justice and other bodies on the subject of how the criminal justice system could better fulfil its stated objectives in this area.

## Appendix – results of GMB ambulance members' survey, July 2020

Do you think there has been a reduction in assaults since the legislation came into force in November 2018? (n = 237)

Answer	%
Yes	1.7
No	98.3

Do you think a one-year maximum sentence for common assault against an ambulance worker is a strong enough deterrent? (n = 238)

Answer	%
Yes	3.4
No	96.6

Do you support increasing the sentencing limit [for common assault against emergency service workers] to two years? (n = 240)

Answer	%
Yes	54.2
No	1.7
It should be higher than two years	44.2
It should be lower [than two years]	0

Have you been assaulted or threatened with assault while you were working in the ambulance services since November 2018? (n = 238)

Answer	%
Yes	74
No	26

[Of respondents who had been assaulted,] did you feel supported by your employer? (n = 168)

Answer	%
Yes	50.6
No	49.4

*Note – percentages may not sum to 100 due to rounding effects.*

Appendix – recorded physical and verbal assaults (West Midlands Ambulance Service)<sup>8</sup>

	Physical				Verbal			
	Total	Intentional	Mental Health	Clinical / Medical	Total	Intentional	Mental Health	Clinical / Medical
2017/18	410	261	93	56	535	483	38	14
2018/19	432	303	87	42	634	568	38	28
2019/20	472	319	108	45	768	666	92	10

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## References

<sup>1</sup> And its predecessor Bill which was sponsored by Holly Lynch MP.

<sup>2</sup> This is a reference to Amendment 3, which widened the scope of the Act to make it an aggravating factor to sexually assault and emergency services worker

<sup>3</sup> GMB, *In Harm's Way: Confronting Violence Against NHS Ambulance Staff*, September 2018 <https://www.gmb.org.uk/sites/default/files/IN-HARMS-WAY.pdf>

<sup>4</sup> Stephen Barclay MP Written Parliamentary Answer to Norman Lamb MP, on Sexual Offences: Essex, 12 March 2018

<sup>5</sup>

<https://www.cps.gov.uk/sites/default/files/documents/publications/Joint%20Agreement%20on%20Offences%20against%20Emergency%20Workers.pdf>

<sup>6</sup> GMB, *In Harm's Way: Confronting Violence Against NHS Ambulance Staff*, September 2018, p. 23 <https://www.gmb.org.uk/sites/default/files/IN-HARMS-WAY.pdf>

<sup>7</sup> Ministry of Justice, Ad-hoc table: Court Proceedings and Outcomes for Assault offences, including Assaults on Emergency Workers, 20 February 2020 (please note that assaults against constables are recorded separately in these tables and are not included in the summary statistics used in this response)

<https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-september-2019>

<sup>8</sup> WMAS, repository of most frequently asked FOI requests [https://wmas365-my.sharepoint.com/:f/g/personal/wmasweb\\_wmas365\\_onmicrosoft\\_com/EIDb0rQYwFxJk7qnZnFWdRgBSC8RYjqKUG7ufgi24Hb1FQ](https://wmas365-my.sharepoint.com/:f/g/personal/wmasweb_wmas365_onmicrosoft_com/EIDb0rQYwFxJk7qnZnFWdRgBSC8RYjqKUG7ufgi24Hb1FQ) [accessed 03 August 2020]