

**Scottish Government Consultation:**  
**Widening the Scope of the Current Victim Statement Scheme**  
**November 2019**

**The Consultation**

In Scotland, victims of the most serious crimes may be eligible to make a victim statement. This is a written statement that gives a victim the chance to tell the court – in their own words – how a crime has affected them physically, emotionally and financially. In reaching their sentencing decision the Judge or Sheriff will take into account a number of different factors, reports and other information available to them, including the victim statement. The Scottish Government has committed to consulting on the details of widening the range of serious crimes which carry the right to make a victim statement.

**The Scottish Women's Convention (SWC)**

The Scottish Women's Convention (SWC) is funded to engage with women throughout Scotland in order that their views might influence public policy. The SWC uses the views of women to respond to a variety of Parliamentary, Governmental and organisational consultation papers at both a Scottish and UK level.

The Scottish Women's Convention engages with women using numerous communication channels including Roadshow events, Thematic Conferences and regional contact groups.

Do you have a favoured option for how we could extend eligibility to make a victim statement?

Option A - expanding eligibility to include the list of serious offences at section 4

Option B - expanding eligibility to all cases heard under solemn proceedings

Option C – as per Option B but also including a list of offences which would be eligible for a victim statement even if they were tried as summary proceedings

Please provide a reason for choosing your favoured option. If you favour option A, are there other offences we should consider adding to the list set out at section 4? If you favour option C, which offences do you think should be considered for inclusion so they would be eligible for a victim statement even if tried as summary proceedings?

In consultation with women, the SWC favours the latter approach of Option C for providing the most available when seeking redress in court cases. Allowing victims to make a statement detailing their ordeal should include both solemn and summary proceedings in order to allow women to articulate what they have experienced if they wish to do so. Giving this as an option for a wide range of offences not only seeks redress, but also may play a part in providing some form of closure for a number of victims.

Such a Statement may go some way to helping women by highlighting the impact that the crime has had upon them. Currently, inaccessibility to justice hinders many women who have had crimes committed against them. The opportunity to make a victim statement should be looked at through the wider narrative of societal inequality. Many women at present may feel they have a “*missed opportunity*” for closure whilst others have pointed to such a scheme as allowing them to show the perpetrator in their own words the exact harm that they have caused.

To help us decide how to extend the list of current offences for which a victim statement can be made, we need to identify any potential impacts that the changes may have. Do you envisage any potential implications for you/your organisation if the list of current offences that are eligible to make a victim statement was extended? Yes No If yes, please provide further details of any potential implications you envisage.

Many women still lack access to justice through the court system for crimes perpetrated against them. A number have noted that a Victim Statement may provide a cathartic or therapeutic measure when going through this process. Helping to describe what has happened in a way that allows their own personal experiences to come across is welcomed by many.

However, with this approach kept in mind, it must also be noted that the ability to make such a Statement is a matter of personal opinion. Those who do not wish to do so should be made aware that this will have no impact on decisions taken in the case of the offender in regards to verdicts.

The consequences that a procedure such as this may have for triggering past trauma must be considered. This was thought to be particularly apt in cases where crimes are committed by someone known to the victim and where more personal motives are attached. Many women stated that they would most likely feel some form of pressure into not pertaining to such a scheme in this instance.

With these risks borne in mind, the need for choice and trauma-informed support for those affected by offences should always remain the number one priority. All victims should be given the support to make a well informed decision that has their best interests at heart.

Victim statements must currently be made in writing by the victim. Do you think we should look at piloting new ways for victim statements to be made? If no, please set out your reasons why we shouldn't look at piloting different ways for victim statements to be made. If yes, which of the following formats do you think should be explored (please select all that apply)?  
• Victims reading their statement in court • Pre-recording the statement on video • Pre-recording the statement with audio only • The judge reading the statement aloud to the court • Other options (provide details) Why do you think this option / these options would be beneficial to the victim?

Yes. Whilst it is important that victims are given a full range of options, it is paramount that each is explained fully with robust procedures in place to support any decision the victim comes to. This should also include a clear reference to any and all impacts that making such a statement may have.

Pre-recording of evidence was seen as beneficial as it means victims would not have to read aloud a statement in Court in front of the accused. This may incur particular implications, however, where a victim may feel uncomfortable or challenged if said recording brings up negative emotions associated with the offence. This could include the victim coming to a decision after the recording that they do not want this played.

A number of individuals would welcome the opportunity to make such a Statement if their trial goes to Court but may be reluctant to present the material themselves – preferring it to be handed out as a written document or have it read aloud by someone else. This should be borne in mind when changes to the implementation of any new guidelines on the Victim Statement Scheme is laid out.

Every woman is individual and will make different choices. This should be recognised and supported throughout the process. The victim should have the right to change her mind regarding how the victim statement is delivered. This must be done without prejudice to her case or character.

Are there any other aspects of the current victim statement scheme which you consider could be improved? If yes, please provide further details of what could be improved.

Yes. One of the most important factors to take into consideration around the current victim statement scheme should be focused on accessibility of information for all involved. This

should include taking account of language barriers and cultural sensitivities for victims as well as ensuring all material explicitly states every step in the process. Ensuring that individuals are made aware that a statement cannot be withdrawn, will be seen by the defence and may be used as part of a cross examination by the defence even after sentencing should be clear. Women have expressed concern that victims may not be wholly informed about the consequences of giving such a statement. There should also be options for support post-trial with a mind to whether or not the victim decided to make a statement.

### Are there any equality related issues that you feel could arise from the proposals set out in this paper?

Women have raised concerns in relation to the implications that making such a Statement may have for them in future. Many who have experienced gender based violence noted that they would be reluctant to make such a statement in court for fear of retaliation. The impact that a victim statement scheme may have on sentencing decisions could make them reluctant to take up this option.

A victim who makes a statement can be cross-examined by the defence, or in some cases, by the accused. This can bring up extremely negative and harrowing issues and could prevent women coming forward to make a statement for fear of what trauma that this may bring.

### Conclusion

The SWC welcomes the opportunity to comment on the proposed options for extending the criteria by which victims can partake in the Victim Statement Scheme. Ensuring that strategies within Scotland's justice system take account of the impact that crimes have on victims as well as giving them a range of options to make well informed decisions is crucial in order to highlight the impact that inequality has.

**For further information, please contact**

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**The Scottish Women's Convention engages with women using numerous communication channels including Roadshow events, Thematic Conferences and regional contact groups. This submission paper provides the views of women and reflects their opinions and experiences in a number of key areas relevant to women's inequality in Scotland.**

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