



**A consolidated shadow report from Scotland in
response to the UK baseline evaluation**

Scottish Women's Aid (SWA) has collected responses to the UK Baseline Evaluation from organisations across the women's sector; Rape Crisis Scotland has collected and contributed commentary relevant to sexual violence, and we have included it here. SWA applied to the Scottish Government for a small amount of funding to support the work but were unsuccessful.

SWA invited contributions from organisations across the continuum of VAWG, and we have attempted to eliminate and repetition. Please note that a number of organisations (e.g., those supporting survivors of FGM and commercial sexual exploitation) had no capacity to contribute. The resulting gap in the information presented here does not indicate the lack of problems but the contrary.

The following organisations were able to comment:

Engender works to dismantle structural sexism to increase women's social, political and economic equality, and enable women's rights. We believe in intersectional, inclusive feminism, and work at Scottish, UK and international level to produce research, analysis, and recommendations for intersectional feminist legislation and programmes.

Close the Gap has two decades' experience of working with policymakers, employers, and unions on women and work. We are experts on the barriers which affect women's participation in Scotland's labour market.

Rape Crisis Scotland is Scotland's leading organisation working to transform attitudes, improve responses and ultimately to end rape and sexual violence in all its forms.

Scottish Women's Aid is Scotland's national strategic domestic abuse organisation and is the umbrella for a network of 34 grassroots services across the country.

Scottish Women's Convention engages with women on a local and national level. It is important that women's voices are heard as part of the decision-making process.

Zero Tolerance works to end men's violence against women by tackling its root cause: gender inequality.

We have excerpted comments from the Scottish Government in the UK Baseline report in each article with comments, for ease of reference.

Key points

Funding of specialist services: Scottish governments at national and local levels have failed to address the disproportionate harm of austerity, of the pandemic, of the cost-of-living crisis on women, children and those delivering specialist services.

Justice reform: Reflecting on our comments in a number of articles, it is clear that the criminal and civil justice systems as structured in Scotland are inimical to women and children experiencing domestic abuse.

We are looking forward to GREVIO's visit to Scotland early in 2024, and we can answer any questions then. Thank you for reading this!

Article 4: Fundamental rights, equality and non-discrimination

Article 5: State obligations and due diligence

Article 6: Gender sensitive policies

Engender: Operating within a multi-level system of governance impacts the level of coordination and coherence surrounding Equally Safe (Scotland's VAWG strategic document) and its primary prevention objective. This is particularly the case when matters devolved to Scotland and matters reserved to the UK overlap, as with social security policy. Social security policy is primarily reserved to the UK Government; this includes Universal Credit, which has been widely criticised for reinforcing the traditional "male-breadwinner-female-carer" model and entrenching gender inequality in households. Universal Credit has also been linked to a greater risk of financial abuse and engaging in survival sex while also undermining a woman's ability to leave an abusive partner due to its punitive design features, like single household payments, which makes it wholly incompatible with the Scottish Government's commitment to tackling systemic inequality and advancing primary prevention.

The Scotland Act 2016 grants the Scottish Government devolved powers to change payment arrangements of Universal Credit. As part of its commitment to tackling gender inequality and "bring a stronger gender perspective to policymaking", the Scottish Government's 2017-2021 Equally Safe delivery plan committed to "developing proposals for delivering split payments under Universal Credit". Despite the Scottish Government outlining their commitment to introducing individual payments numerous times since 2017, progress to deliver this commitment has been slow and dependent on meaningful collaboration with the UK Government's Department for Work and Pensions (DWP). As of 2023, automatic individual payments are still unavailable to women claiming Universal Credit in Scotland. In July 2023, the Scottish Government indicated it would submit policy proposals to the DWP "soon".

Sources include:

Scottish Government & COSLA (2018) Equally Safe Scotland's strategy for preventing and eradicating violence against women and girls. Available at: <https://www.gov.scot/binaries/content/documents/govscot/publications/strategy-plan/2018/04/equally-safe-scotlands-strategy-prevent-eradicate-violence-against-women-girls/documents/00534791-pdf/00534791-pdf/govscot%3Adocument/00534791.pdf>

Scottish Government (2023) National Planning Framework 4. Available at: <https://www.gov.scot/publications/national-planning-framework-4/>

Scottish Government (2023) National Planning Framework 4 Delivery Programme. Available at: <https://www.transformingplanning.scot/media/3136/national-planning-framework-4-delivery-programme-for-publication-2-november-2022.pdf>

UN Special Rapporteur on Extreme Poverty and Human Rights (2019) Visit to the United Kingdom of Great Britain and Northern Ireland Engender (2019) Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/112/13/PDF/G1911213.pdf?OpenElement>

The Telegraph (2018) UK's welfare system is cruel and misogynistic says UN expert after damning report on poverty. Available at: <https://archive.ph/MQh1O>

EVAW Coalition et al. (2018) Universal Credit and Financial Abuse Exploring the Links. Available at: <https://www.endviolenceagainstwomen.org.uk/wp-content/uploads/2018/06/FINAL-full-report-financial-abuse-and-uc.pdf>

House of Commons Work and Pensions Committee (2019) Universal Credit and "survival sex". Available at: <https://www.engender.org.uk/content/publications/Engender-Briefing-Recognising-the-Vital-Role-Men-Must-Play-in-Challenging-and-Eradicating-VAWG.pdf>

House of Commons Women and Equalities Committee (2021) Unequal impact? Coronavirus and the gendered economic impact. Available at: <https://committees.parliament.uk/publications/4597/documents/46478/default/>

Cabinet Secretary for Communities, Social Security and Equalities, Shirley-Anne Sommerville MSP (2023) Written Answer S6W-19509. Available at: <https://www.parliament.scot/chamber-and-committees/questions-and-answers/question?ref=S6W-19509>

Hannana Siddiqui (2018) Counting the cost: BME women and gender-based violence in the UK. Available at: <https://onlinelibrary.wiley.com/doi/full/10.1111/newe.12076>

Office for National Statistics (ONS) (2019) Disability and crime, UK: 2019. Available at: <https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/disability/bulletins/disabilityandcrimeuk/2019>

Scottish Women's Aid (2021) Honour-Based Abuse: The impacts for young people and barriers seeking support. Available at: <https://womensaid.scot/honour-based-abuse-the-impacts-for-young-people-and-barriers-seeking-support/>

Police Scotland (2022) 22-0400 - Crime Stats - Honour Based Violence - 2015-21. Available at: <https://www.scotland.police.uk/access-to-information/freedom-of-information/disclosure-log/disclosure-log-2022/april/22-0400-crime-stats-honour-based-violence-2015-21/>

Scottish Government (n.d) National Performance Framework – What it is. Available at: <https://nationalperformance.gov.scot/what-it>

Scottish Government (2023) National Indicator Performance – Communities – Crime Victimisation. Available at: <https://nationalperformance.gov.scot/measuring-progress/national-indicator-performance>

Scottish Government (2018) Equally Safe, Scotland's strategy for preventing and eradicating violence against women and girls. Available at: <https://www.gov.scot/binaries/content/documents/govscot/publications/strategy-plan/2018/04/equally-safe-scotlands-strategy-prevent-eradicate-violence-against-women-girls/documents/00534791-pdf/00534791-pdf/govscot%3Adocument/00534791.pdf>

Scottish Government (2023) The Independent Strategic Review of Funding and Commissioning of Violence against Women and Girls. Available at: <https://www.gov.scot/publications/violence-against-women-girls-independent-strategic-review-funding-commissioning-services-report/documents/>

Scottish Women's Aid: In 2017, the Scottish Government set up the First Minister's National Advisory Council on Women and Girls (NACWG) to advise re actions to address women's and girls' inequality (<https://www.generationequal.scot/>). NACWG has made numerous recommendations and followed up with scrutiny sessions to examine implementation, with an overarching goal of building the gender competence and infrastructure for policy making. Very little institutional improvement has been evident, and accountability needs to be implemented at Cabinet level to drive change forward.

Article7: Comprehensive and co-ordinated policies

UK Report: *In Scotland, Equally Safe is the Scottish Government's strategy to prevent and eradicate VAWG and takes a gendered analysis approach. This strategy is co-owned by the Scottish Government and COSLA (Convention of Scottish Local Authorities) and involves collaborative working with key partners in the public, private and third sectors. Equally Safe sets out a vision to prevent violence from occurring in the first place, build the capability and capacity of support services, and strengthen the justice response to victims and perpetrators. The Scottish Government Vision for Justice, published in 2022, acknowledges that the current justice system was historically designed by men, for men, and thus does not meet the needs of over half of our society; and that urgent action must therefore be taken to ensure women and children are better services by our approaches to justice.*

Engender: In Scotland, the availability and accessibility of data varies across the different forms of VAWG. While some government publications do include the sex of victims of these recorded crimes, intersectional equalities data is rarely available, such as the ethnicity or disability status of victims. These represent significant data gaps in understanding the prevalence and incidences of VAWG in Scotland, particularly as Black and minority ethnic women and women with a disability are at an increased risk of gender-based violence. In addition, perpetrator data is not consistently available in sexual and non-sexual recorded crimes, meaning the gendered component of these crimes is not accounted for.

Very little data is collected or available on forms of so-called "honour-based" abuse, which also disproportionately affects Black and minority ethnic women. There is no statutory crime of honour-based abuse in Scotland. However, it is an aggravator for other crimes. Police Scotland, therefore, records incidents of honour-based abuse where there is a "concern" for an individual on their interim Vulnerable Persons Database (iVPD). Data from this database is not readily publicly available, however, limited information has previously been accessed through Freedom of Information requests. However, this information does not include the sex or ethnicity of the persons involved, nor does it outline the type of honour-based abuse recorded.

The Scottish Crime and Justice Survey (SCJS) provides limited information on certain forms of VAWG, including incidents that are not reported to the police. However, not all forms of VAWG covered in the Equally Safe Strategy are assessed, such as "honour-based" abuse. In addition, the data that is available is once again not fully disaggregated, intersectional or gendered. The survey

also does not effectively assess the gendered differences between men's and women's experiences of different forms of violence and its lasting impact.

Scottish Women's Convention: From speaking with women in rural locations it is clear that there is regional difference with regards to VAWG services. This is related to funding priorities and increased centralisation, which is being seen across all public services in Scotland. Women have stated that this creates significant disadvantage for rural communities, particularly women and girls at risk of violence. Some have also explained that this lack of service is a clear violation of their rights as set out by CEDAW and ICESCR.

Article 8: financial resources

UK Report: *In Scotland, the Delivering Equally Safe Fund provides £19 million per year to support 121 projects from 112 organisations that focus on early intervention, prevention and support services. The Victim Centred Approach fund is providing £18.5 million over the period of 2022-25 for specialist advocacy support for survivors of gender-based violence.*

Rape Crisis Scotland: There is a significant lack of sustainable funding for Rape Crisis services - further detail is available in <https://www.rapecrisisscotland.org.uk/news/news/statement-on-waiting-lists-and-the-need-for-sustainable-funding/>. Further, proposed local government funding arrangements outlined in the recent Scottish Government commissioned Independent Funding Review for VAW services (<https://www.gov.scot/publications/violence-against-women-girls-independent-strategic-review-funding-commissioning-services-report/>) would be concerning in terms of availability of funding and consistency across local authority areas. Further concern with regard to impact on eligibility for other extra-governmental funding and grants.

Scottish Women's Aid: A stable and sustainable funding model for specialist domestic abuse services is the foundation for ending all forms of domestic abuse. Scottish Government have funded some VAWG services for a number of years, but all of our local services depend also on local government funding, which since Austerity was imposed in 2010 by local authorities, services have been chronically underfunded and oversubscribed. Funding services to run sustainably would not only enable the domestic abuse specialist sector to support women and children in both an immediate sense and living with long term trauma but also would enable the sector to work collaboratively with communities to tackle the causes of domestic abuse. Austerity, then Covid, then the cost of living crisis has been a perfect storm, and our network is in great peril as a result.

The current funding structure is a historical accident, and services survive on a patchwork of funding, most from local governments (which has reduced every year for most services) and the Scottish Government (which has been level-funded and thus delivered real-time cuts). Survivors experience what we call a "post code lottery" that means that geography and politics determine funding levels rather than need. Alignment of policy, practice and funding is the most effective way to bring about real change and a stable, sustainable funding model would give specialist services the opportunity to act flexibly and meet the needs of every survivor seeking support. SWA supports the recommendation in the Independent Review of Funding (<https://www.gov.scot/publications/violence-against-women-girls-independent-strategic-review-funding-commissioning-services-report/>) for a need-based funding regime established at the national level but distributed via local partnerships. We have strong reservations about the ability of Violence against Women Partnerships to manage distribution but are happy to work nationally and locally to improve the structures. We think a network of public social partnerships, led by VAWG CSOs is a model with the potential to work.

*We are cushioning the government's responsibility in countering these uncontrollable threats to our services. We're trying to deliver national and local strategies with never ending threats to our funding
Enough it enough!*

- VAWG Support worker

Article 9: Non-governmental organisations and civil society

UK Report: *In Scotland, the Equally Safe strategy aims to foster collaborative working between partners across society, and NGOs are recognised and acknowledged as core to this. In addition to the significant funding to civil society actors outlined above, the Scottish Government's NGO 6 partners are represented on the Joint Strategic Board which oversees the direction and delivery of the strategy.*

Scottish Women's Convention: Workers across VAWG services have stated that consistent three-year funding strategies do not allow for effective solutions to violence. This places further strain on workers, as well as survivors, causing further hardship. Women have also highlighted that the systematic removal of community projects seen across Scottish councils, has resulted in fewer service options for those at risk of violence.

"On the coal face, we're all working and we're all trying to give that support and everything...but I think there needs to be an actual layer of resources that potentially we're not getting at the moment, and that can only come from the Government."

- VAWG support worker, 2022

Article 11: Data collection and research

UK Report: *In Scotland, since 2020, the Scottish Government has prioritised and undertaken a wide and varied range of research to support this important work. This has included research during the pandemic on the impacts of lockdowns on VAWG; research to support policy development on addressing misogynistic behaviour; monitoring the effectiveness of domestic abuse legislation; evidence gathering exercises on prevention strategies and international models; and research on sexual exploitation and the purchase of sex. Further work is planned for 2023, building on the considerations of the Women in Justice Leadership Panel which is scheduled to report before the Summer Women's Justice Leadership Panel - gov.scot (www.gov.scot).*

Engender: In Scotland, the availability and accessibility of data varies across the different forms of VAWG. Some data on reported "sexual crimes" are available via the Scottish Government's official publication "Recorded Crime in Scotland", which includes recorded incidents of rape and attempted rape, sexual assault and various illegal forms of technology-facilitated abuse. This publication also includes statistics on domestic abuse as recorded under the Domestic Abuse (Scotland) Act 2018. A separate analysis of recorded domestic abuse incidents is also available in the Scottish Government's official statistical bulletin "Domestic abuse: statistics recorded by the police in Scotland"; this bespoke publication includes details of recorded incidents and characteristics of victims and perpetrators, such as their age and gender.

A more detailed analysis of homicide in Scotland is also available in the Scottish Government's "Homicide in Scotland" statistical bulletin. This includes data on the location of the homicide, the sex of the victim and accused, as well as the relationship between the victim and the accused in solved cases of homicide.

Therefore, limited data on some forms of VAWG is dispersed across these various publications. While some of these publications do include the sex of victims of these recorded crimes,

intersectional equalities data is rarely available, such as the ethnicity or disability status of victims. These represent significant data gaps in understanding the prevalence and incidences of VAWG in Scotland, particularly as Black and minority ethnic women and women with a disability are at an increased risk of gender-based violence. In addition, perpetrator data is not consistently available in sexual and non-sexual recorded crimes, meaning the gendered component of these crimes is not accounted for.

Very little data is collected or available on forms of so-called “honour-based” abuse, which also disproportionately affects Black and minority ethnic women. There is no statutory crime of honour-based abuse in Scotland. However, it is an aggravator for other crimes. Police Scotland, therefore, records incidents of honour-based abuse where there is a “concern” for an individual on their interim Vulnerable Persons Database (iVPD). Data from this database is not readily publicly available, however, limited information has previously been accessed through Freedom of Information requests. However, this information does not include the sex or ethnicity of the persons involved, nor does it outline the type of honour-based abuse recorded.

The Scottish Crime and Justice Survey (SCJS) provides limited information on certain forms of VAWG, including incidents that are not reported to the police. However, not all forms of VAWG covered in the Equally Safe Strategy are assessed, such as “honour-based” abuse. In addition, the data that is available is once again not fully disaggregated, intersectional or gendered. The survey also does not effectively assess the gendered differences between men's and women's experiences of different forms of violence and its lasting impact. This is concerning as the SCJS results measure progress against the Scottish Government's National Performance Framework (NPF), which outlines the Scottish Government's ambitions for society and aims to localise the delivery of the UN's Sustainable Development Goals (SDGs). The NPF sets out 11 National Outcomes, which describe “the kind of Scotland [the NPF] aims to create” and are measured by 81 statistical indicators. The Scottish Government uses the NPF to shape policies and strategies by aligning them to these National Outcomes.

Data from the SCJS is used to measure the National Outcome on inclusive, empowered and safe communities. However, the lack of a gendered approach in the SCJS means that the indicator for this Outcome currently states that there is “no significant difference between men and women who were victims of SCJS crime”. This completely overlooks the very different ways men and women experience safety in their communities because of their gender and the impact of VAWG while simultaneously contradicting the Equally Safe Strategy's understanding of VAWG.

The NPF is not well-gendered and is not aligned with SDG 5: achieving gender equality and empowering women and girls, which includes targets relating to gender-based violence. Therefore, the lack of disaggregated, intersectional and gender-sensitive data on VAWG in Scotland means it is highly likely that the NPF is failing to deliver progress towards women's equality and safety. Similarly, it is preventing progress towards the Equally Safe objective that states, “Women and girls are safe, respected and equal in our communities.”

The SCJS methodology requires significant improvement and alignment with Equally Safe, including capturing more data on omitted VAWG issues, disaggregating data by equalities characteristics and gender-sensitive collection practices that enable rigorous gender analysis.

In 2023, the Independent Strategic Review of Funding and Commissioning of Violence against Women and Girls Services recommended the creation of an Istanbul Observatory, which would collect data and research on all forms of violence and address data gaps, including disaggregated intersectional data and research with minoritised groups. The Scottish Government is yet to formally respond to the recommendations of this review. The Government must urgently prioritise better data collection on all forms of VAWG to ensure that prevalence data on gender-based violence is comprehensive and accessible. The Scottish Government must commit to building

gender competence, and competence across the equalities characteristics, across the public sector to ultimately improve the collection of gender-sensitive sex-disaggregated data that moves beyond simply counting women to exploring the fundamental differences between the lives of men and women in Scotland.

The Delivering Equally Safe funding programme has supported civil society organisations to conduct research into women's experiences of gender-based violence in Scotland. In particular, this funding enabled Engender, Scottish Women's Aid and Rape Crisis Scotland to conduct participatory research into women's lived experiences of men's violence and the primary prevention of this violence. This funding has been vital for involving the voices of Experts by Experience in prevention activity in Scotland.

Rape Crisis Scotland: There are significant gaps in data, particularly justice data with no available information on gender, age, ethnicity in current statistical bulletins. It is not possible from the available data to determine how many reported rapes lead to a prosecution or conviction. Data is currently not collected on femicide.

Scottish Women's Convention: There is a lack of good quality data across local authorities, which actively creates further barriers to eliminating VAWG. Furthermore, the usage of SIMD creates significant data collection issues across island and rural communities in Scotland. This data technique overlooks small populations, ignoring the many differences which can be seen throughout rural communities. This highlights the need for alternative data collection methods across rural areas.

Article 12: General obligations

Engender: The Scottish Government and COSLA's Equally Safe Strategy describes primary prevention as a "core objective" that will be achieved in Scotland by "changing behaviour, building the knowledge and skills of individuals, and ultimately delivering a progressive shift in the structural, cultural and societal contexts in which violence occurs" and changing "societal attitudes, values and structures which produce inequality." Despite this commitment, primary prevention continues to be inconsistently integrated across all areas of public policy within the Scottish Government's remit. Indeed, there is a broader lack of policy coherence concerning the Equally Safe Strategy as policies continue to be developed that are ungendered and, as such, further entrench or inadvertently create new mechanisms for gender inequality in Scotland.

For example, planning policy has been historically gender-blind despite the gendered differences in how men and women experience and use public space and its impact on VAWG. Despite this, women are only cursorily mentioned in the Scottish Government's latest National Planning Framework (NPF4). This policy spans 162 pages, sets out Scotland's national planning policies and priorities until 2045, and holds considerable influence in more localised decision-making. Although Policy 14 of the NPF4 commits to "prioritising aspects of women's safety", this focus on women's safety is inconsistent throughout the document and subsequent approach in its entirety. In particular, there is no mention of VAWG in the section on Health and Safety policy, nor is Equally Safe referenced as one of the many key linked or cross-cutting Scottish Government policies in the NPF4 Delivery Plan. Ultimately, there is no detail on how this key public policy will advance women's equality or primary prevention through these long-term national planning policies and priorities.

An effective primary prevention approach requires action at all levels of influence, including the governmental level. To achieve this, the Scottish Government must improve the coordination and policy coherence between the Equally Safe Strategy and all other areas of public policy. This will require wide-ranging actions, including improving gender competence amongst all policymakers, increasing the number of women in decision-making and policymaking positions; improving the collation and use of gendered, intersectional and sex-disaggregated data; and mainstreaming

primary prevention into all areas of public policy. It is also vital that the Scottish Government leads by example on this to demonstrate to the UK Government the importance of taking a primary prevention approach in reserved policies. The UK Government should also integrate primary prevention into their own national VAWG strategy.

Zero Tolerance: The Scottish Government funds Zero Tolerance to undertake work to prevent Violence Against Women and Girls. The Domestic Abuse and Don't Be That Guy campaigns challenged attitudes to some extent but we know that these types of action are not the most effective for prevention and challenging violent behaviour unless they are one aspect of more substantial, multi-component interventions (Kerr-Wilson et al. 2020, Jewkes et al. 2021). A greater emphasis on holistic, long-term prevention work in addition to these interventions is critical. The social transformation needed to prevent men's violence requires systematic and coordinated investment and effort, at the largest scale possible, from all levels of government as well as the third sector, the private sector, civil society and communities.

Jewkes R, Willan S, Heise L, Washington L, Shai N, Kerr-Wilson A, Gibbs A, Stern E, Christofides N. (2021) 'Elements of the Design and Implementation of Interventions to Prevent Violence against Women and Girls Associated with Success: Reflections from the What Works to Prevent Violence against Women and Girls? Global Programme', *Int J Environ Res Public Health*, Vol. 18(22) pp. 1-16

Kerr-Wilson, A., Gibbs, A., McAslan Fraser E., Ramsoomar, L., Parke, A., Khuwaja, HMA., and Jewkes, R. (2020). A rigorous global evidence review of interventions to prevent violence against women and girls, *What Works to Prevent Violence Against Women and Girls Global Programme* (Pretoria, South Africa)

Article 13: Awareness raising

UK Report: *In Scotland, the Scottish Government works with partners to build recognition of its policies and initiatives, including participating annually in the 16 Days of Activism through a range of social media and other activity. In 2020 it relaunched the Domestic Abuse campaign and supported Police Scotland's Don't Be That Guy campaign.*

Scottish Women's Convention: Women have appreciated the increase in media campaigning around issues of VAWG, however they have also stated that they are unsure whether they have had a good level of impact on men's behaviour, believing that wider cultural change is required amongst men and boys.

Zero Tolerance: The Domestic Abuse and Don't Be That Guy campaigns challenged attitudes to some extent but we know that these types of action are not the most effective for prevention and challenging violent behaviour unless they are one aspect of more substantial, multi-component interventions (Kerr-Wilson et al. 2020, Jewkes et al. 2021).

Article 14: education

UK Report: *In Scotland, the Scottish Government is committed to ensuring all pupils receive high-quality relationships, sexual health and parenthood (RSHP) education. RSHP education supports pupils to learn about safe and healthy relationships and it is for schools to decide how they deliver it, based on the needs of the pupils in their classroom.*

Additionally the Mentors in Violence Prevention Programme tackles gender stereotyping and attitudes condoning VAWG, Equally Safe at School tackles gender based violence and the Gender Based Violence in Schools Working Group is developing a national framework to ensure consistent messaging on gender-based harassment in schools.

In Scotland, colleges and universities are autonomous bodies with responsibility for internal institutional matters, such as course provision and the setting of course content, in which the Scottish Government does not intervene. However, the Scottish Government has established the Equally Safe in Colleges and Universities (ESCU) Core Leadership Group to bring together the sector to more effectively tackle gender-based violence.

Scottish Women's Aid: The victims of domestic abuse and other forms of gender-based violence include children and young people—they are not “witnesses”, nor are they collateral damage, which is how they are treated so often in criminal justice and child protection systems. As part of its commitment to deliver the Equally Safe strategy¹ the Scottish Government have convened a Gender Based Violence in schools working group². The group is made up of a wide range of Scottish civil society organisations (including Scottish Women's Aid, Rape Crisis Scotland, Zero Tolerance) as well as teachers unions, local authorities and Education Scotland. The working group is developing a framework for school to support a preventative whole school community approach to tackling gender-based violence.

Alongside this, the Scottish Government are currently consulting on draft statutory guidance for teachers on the Delivery of Relationships, Sexual Health and Parenthood (RSHP) Education in Scottish Schools. Article 14 of the Istanbul Convention is clear that formal and informal education plays an important role in primary prevention of violence against women and girls. However, the draft guidance is **gender blind**, failing to acknowledge that girls and boys experience relationships and family life differently, that are girls are far more likely to experience sexual harassment, sexual violence, and domestic abuse. The guidance must reflect the clear link between gender inequality and the pervasive nature of violence against women and girls. Research suggests that young people exposed to online misogyny had significantly more harmful perceptions of relationships as well as greater tolerance of harm (<https://www.womensaid.org.uk/wp-content/uploads/2023/10/CYP-WWF-SUMMARY-WEB-FINAL.pdf>). Education must effectively combat the broad range of influences that can normalise harassment, reinforce gender stereotypes and impact on young people's experiences of relationships. The Scottish Government needs to take a much stronger leadership role.

Scottish Women's Convention: Women have consistently explained that the education surrounding VAWG is almost non-existent. They have stated that there is variety across local councils and schools, particularly in Personal Social Education (PSE) classes. Women have explained that they believe more integrated approaches must be taken to bring in third sector organisations who can deliver classes around VAWG, rather than teachers. They have also stated that these classes should remain aware of their audience, keeping them up to date with issues facing young women.

Zero Tolerance: The Scottish Government's current consultation on updated RSHP guidance suggests that there will be prevention-focused content. However, it does not go far enough to ensure a gender transformative approach to courses on Relationships, sexual health and parenthood.

The MVP Programme is listed as a prevention activity, but the MVP website notes that it takes a bystander approach. Bystander approaches are not preventative in and of themselves but rather focus on early intervention. More must be done to embed whole school approaches to gender equality and violence prevention.

Equally Safe at School represents one such whole-school approach. However, it is not as well-funded or widely promoted as MVP. It is also aimed at secondary schools – little to nothing is available for primary schools. This needs to change. Moreover, Education Reform represents an opportunity to embed gender equality in Scottish schools, particularly if the process integrates with the Gender Equality Taskforce on Education and Learning. An intersectional, equalities-focused education reform process is necessary for prevention in Scotland but the Scottish Government has yet to commit to this.

¹ <https://www.gov.scot/policies/violence-against-women-and-girls/equally-safe-strategy/>

² <https://www.gov.scot/groups/gender-based-violence-in-schools-working-group/>

Article 15: Training of professionals

UK Report: In **Scotland**, NHS Education for Scotland (NES) is responsible for developing and delivering healthcare education and training for the NHS, health and social care sector and other public bodies. NHS staff have access to national training e-modules and a number of Gender-based Violence guidance documents from Public Health Scotland and the Scottish Government. Capacity and resource to deliver and attend training varies across local NHS boards, therefore the frequency of and mandatory requirements to attend training is not consistent and are decided at the local level.

The Scottish Government fund Scottish Women's Aid to develop Equally Safe in Practice, a model to increase capacity for training on gender-based violence and the norms and cultures that perpetuate it for organisations across Scotland. The Scottish Government does not hold data, so Table 1 and 2 has incomplete data. They will undergo a review of their data processes to understand how they can collate this data.

Close the Gap: All staff should be receiving and completing training on VAWG in the workplace. Key learning obtained through Equally Safe at Work has highlighted that line managers lack confidence in responding to disclosures and reports of VAWG. As well, line managers are uncomfortable and lack confidence in starting conversations with staff and providing appropriate support. Through Equally Safe at Work, e-learning is provided to line managers on VAWG and work, and sexual harassment, however further work is required in ensuring that workplaces are aware of their critical role in supporting victim-survivors. Evidence from the programme has highlighted that VAW is still not seen as a workplace issue. A further gap in understanding and awareness in professionals is the link between gender equality and VAW. Close the Gap provides training to a variety of staff on 'applying a gender lens' and how to build gender sensitive employment practice. Scottish Government needs to provide leadership by example as an employer and develop incentives and accountability to address gender incompetence in public sector workforce.

Scottish Women's Convention: Those who work within the VAWG sector have expressed concern over the lack of training received across social work. They have explained that despite commitments to ensure trauma-informed practice is commonplace, this is rarely carried out in action. Workers have also stated that children are often used by abusive partners to gain further control, and it is felt that this is not adequately recognised by social workers. They explained that instead social workers encourage relationships between both parents and children, often ignoring the wants of the child and/or mother.

"Social work is very... they're not getting domestic abuse still, even with the training. They say that they do get it, but they don't see the coercive control with the kids stuff... They don't see that what the women are doing is trying to protect their children, and they all have their own coping mechanisms, and some of the coping mechanisms could be seen as putting their kids in danger, but it's not, it's actually surviving. They're seeing the woman as an aggressor in the relationship, whereas they're actually fighting tooth and nail to keep their children safe." - Rural VAWG support worker

Article 16: Preventive intervention and treatment programmes

UK Report: In **Scotland**, the Scottish Government have policy responsibility for and sponsor the Caledonian Programme, Scotland's largest rehabilitation programme for domestic abuse perpetrators and their victims. The Caledonian System is an accredited intervention programme delivered to men convicted of domestic abuse, with services for women and children who have been victims. 19 Scottish local authority areas deliver the Caledonian System on a court mandated

basis. It is currently a community-based programme, primarily delivered by justice social workers but with some third sector providers involved in the delivery of the programme. It is not currently delivered in custody but other programmes which target violence are delivered by the Scottish Prison Service. The female victims of the male perpetrators are offered a support service within the Caledonian System. The services for women involve provision of safety planning, information, advice and emotional support by dedicated women's workers who aim to reduce the risk to women and their children and improve their social and emotional wellbeing. The Caledonian System is sponsored by the Scottish Government's Public Protection Unit. The current annual budget is £4.1 million. It adopts a gendered analysis, following the Equally Safe strategy, of understanding and working with domestic abuse perpetrators. The Caledonian System was evaluated and accredited by the Scottish Panel on Offender Rehabilitation (SAPOR) in 2016.

SAPOR have approved the Scottish Government's recommendation to implement an outcomes monitoring framework and commission an independent evaluation in two to three years' time (subject to budget).

*In **Scotland**, the Moving Forward: Making Changes (MF:MC) Programme was designed jointly by the Scottish Prison Service and the Scottish Government's Community Justice Operational Practice Unit. MF:MC is an intensive treatment programme for sex offenders which aims to "reduce the reoffending of men convicted of sexual offences and increase their opportunities and capacities for meeting needs by non-offending means". It was delivered within custody in three sites in Scotland, and MF:MC continues to be delivered in 29 Scottish local authorities. The MF:MC aligns with the Equally Safe strategy and the Scottish Government's commitment to preventing and eradicating VAWG by driving initiatives to tackle domestic abuse, to holding perpetrators to account and supporting them to change their behaviour. A revision called Moving Forward 2 Change (MF2C) has been designed for males aged over 18 who have been convicted of a sexual offence, or a non-sexual offence that contains a sexual element and who have been assessed as medium and high-risk by the Stable and Acute 2007 risk assessment tool. Currently the project is within the design, pilot and evaluation phases. Individuals who complete MF:MC/MF2C are managed within wider risk management systems that consider victim safety planning.*

The Self-Change Programme (SCP) is a high-intensity cognitive-behavioural intervention that aims to reduce violence (including general, sexual and intimate partner violence) in high-risk adult male offenders; it is currently being piloted in two sites within the Scottish Prison Service. The Scottish Prison Service, Community Justice Scotland and local authorities provide a broad range of programmes and interventions, so it is not possible to disaggregate one set of programme costs. MF2C pilot and SCP pilots are currently being evaluated. Both programmes will be submitted for accreditation to Scottish Accreditation Panel Offender Rehabilitation (SAPOR).

Rape Crisis Scotland: Rape Crisis Scotland co-ordinates a National Prevention Programme, which last year worked with 35,058 young people in over 200 secondary schools, schools can access a programme of workshops on consent and healthy sexual relationships. Standstill budgets and insecure, year to year funding, limit the ability of all young people in Scotland to have access to this programme.

Scottish Women's Convention: The 'Safe & Together' Project is viewed positively by women, with it being thought to be impacting cultural views of VAWG. VAWG workers have also stated that despite the introduction of the Caledonia Project, they are unsure of the effectiveness. This is due to a lack of review process, with the last being carried out in 2016, as well as the project only being available in 19 of 32 local authority areas. Women have also stated that they are sceptical of the value of such a project, stating that some offenders may use it to gain a shorter sentence.

Article 17: Participation of the private sector and the media

UK Report: In **Scotland**, the Scottish Government funds 'Close the Gap', to deliver Equally Safe at Work employer accreditation programme to help employers to advance gender equality and prevent VAWG in the workplace. It also funds Close the Gap to deliver a Gender Beacon Collaborative to work with the Scottish Government, the third sector and NHS health boards to meet the standards in the Equally Safe at Work programme. In the Fair Work Action Plan, the Scottish Government has reaffirmed its commitment to promoting and disseminating learning and good practice to aid employers to address a range of inequalities in the workplace, including sexual harassment at work.

In **Scotland**, the Scottish Government fund Engender to create Gender Equal Media Scotland to work for women's equality in Scottish media. The Scottish Government wishes to see a Scottish media which treats women equally – as employees, as contributors and as subjects of media attention.

The **Scottish** Government's Fair Work First approach involves the application of fair work criteria to public sector grants, other funding and contracts where it is relevant to do so. This includes key criteria for recipient organisations to 'take action to tackle the gender pay gap and create a more diverse and inclusive workplace'. The updated Fair Work First Guidance provides good practice examples to guide employers' approaches such as recognising that female employees can be living through difficult personal circumstances which could include experiencing domestic abuse (or other forms of VAWG), or moving on from commercial sexual exploitation. It also provides guidance for employers to align policies and practice with the Equally Safe strategy and to gain the Equally Safe at Work accreditation to prevent workplace harassment.

In **Scotland**, the Scottish Government has launched a consultation on draft reforms, which would create five new laws to provide police and prosecutors with new powers to tackle the corrosive effects of misogyny. The proposals are based on the recommendations made by a Working Group on Misogyny led by Baroness Kennedy. The five proposed laws are:

- An offence of misogynistic harassment
- An offence of misogynistic behaviour
- A statutory aggravation concerning misogyny
- An offence of threatening or abusive communications to women or girls that reference rape, sexual assault or disfigurement
- An offence of stirring up hatred against women and girls

Engender: In 2023, the Scottish Government funded the feminist policy organisation, Engender, to launch Scotland's Equal Media and Culture Centre (EMCC) – the first of its kind in the UK. The EMCC is a hub for research, monitoring and advocacy for equality in the creative and media sectors in Scotland. It aims to address men's over-representation across the media and creative industries in Scotland, which contributes to widespread stereotyping of women as well as a lack of gender balance in print, on the airwaves and on screen. The EMCC also challenges harmful portrayals of VAWG in the media and arts while simultaneously supporting these industries to prevent and address incidents of such violence in their workplaces. The Scottish Government must provide long-term and sustainable funding for the EMCC to ensure it can effectively drive lasting change to prevent VAWG – both within the media and creative industries as well as wider society.

Scottish Women's Convention: Women have explained that the media has both a positive and negative impact on VAWG. They stated that there have recently been good media campaigns, highlighting the different forms of VAWG and how men can be more effective allies. However, much of TV and film still misses the mark with regards to VAWG, particularly domestic abuse. Women in general also experience misogyny and violence across the private sector. We have heard stories of harassment and abuse within workplaces, as well as at universities.

Zero Tolerance: The Scottish Government funds Zero Tolerance to undertake primary prevention work and we provide journalists with media guidelines on reporting violence against women. The aim of article 17 is to obligate governments to encourage sectors to set guidelines and self-regulatory standards or codes of conduct that strengthen respect and dignity for women and girls, thereby contributing to the prevention of VAWG. It is important the Gender Equal Media Hub is supported by Scottish Government action to encourage criminal justice, the police and other actors that engage with the media to establish their guidelines for discussing VAWG respectfully. The broad creation of guidelines across these institutions should set a clear precedent for communications that talk about VAWG appropriately and shaping people's understanding of that VAWG is unacceptable in our society. Furthermore, anonymity should be given to Scottish victim-survivors when it comes to reporting VAWG, a provision already provided in England and Wales.

"Unfortunately, I was sexually assaulted in my first year at university and have received support from Rape Crisis. I feel that more has to be done to tackle rape culture and challenge the stigma around sexual harassment."

- Misogyny Survey respondent, 2023

Article 18: General obligations

Close the Gap: Under this article, there is mention of an obligation to take measures that aim at the empowerment and economic independence of women victims of violence. Findings from the Equally Safe at Work programme outline that women continue to face barriers in the workplace in regards to access to flexible working, progression, and learning and development opportunities. As well, data collected through surveys and focus groups have illustrated that victim-survivors have had to leave their job due to a lack of support from their employer. In some cases women face barriers such as being unable to access their pay in advance to leave an abusive relationship, that can put them at increased risk. This demonstrates that further work is required by employers to better understand how to support women in the workplace. While Equally Safe at Work enables employers to develop gender- and VAW- sensitive employment practice, the Scottish Government and local authorities need to ensure that more employers complete this programme and have the time and resources to address women's labour market inequality.

Article 19: Information

UK Report: In **Scotland**, the *Victims and Witnesses (Scotland) Act 2014* contains provisions for victims to receive information on available support services. The *Victims' Code for Scotland* was published under that Act, setting out the various rights and support available, including legal assistance. Criminal justice organisations also publish standards of service under the Act. Police Scotland operate a domestic abuse disclosure scheme whereby individuals can seek information about whether or not a partner has previously been charged with domestic abuse related offences.

Rape Crisis Scotland: Despite the Lord Advocate and other justice agencies having a statutory obligation under the *Victim & Witnesses (Scotland) Act 2014*, complainers of sexual crime regularly report not being kept informed of the progress of their case.

[https://www.gov.scot/publications/thematic-review-investigation-prosecution-sexual-crimes/ & Response 415486037 to Victims, Witnesses, and Justice Reform \(Scotland\) Bill - Scottish Parliament - Citizen Space](https://www.gov.scot/publications/thematic-review-investigation-prosecution-sexual-crimes/ & Response 415486037 to Victims, Witnesses, and Justice Reform (Scotland) Bill - Scottish Parliament - Citizen Space)

Article 20: General support services

UK report: In **Scotland**, *The Domestic Abuse (Protection) (Scotland) Act* helps prevent women's homelessness by barring the perpetrator of domestic abuse from the home and giving social

landlords the ability to apply to the court for an order to transfer a tenancy to the victim-survivor. The Scottish Government will also make it a legal requirement for social landlords to develop and implement a domestic abuse housing policy via a forthcoming housing bill.

The Scottish Government is bringing forward legislation to introduce a right to automatic publicly funded Independent Legal Representation for complainers (in sexual offence cases) where a request is made to lead evidence in court which related to their sexual history or character. The Scottish Government is providing £18.5 million for specialist advocacy support for survivors of gender-based violence. The Scottish Government have produced a trauma-informed practice and domestic abuse companion document, to sit alongside the Mental Health and Wellbeing Strategy. This document aims to support all professionals working with women, children and young people affected by domestic abuse and those working with perpetrators, to strengthen awareness and understanding about trauma-informed and domestic abuse-informed practice.

In Scotland, there is a free resource for universities working to prevent GBV on their campus (ESHE Toolkit | University of Strathclyde) and a gender-based violence in schools working group has been established to develop a national framework to prevent and respond to harmful behaviour and gender-based violence in schools. No One Left Behind is the Scottish Government's, all-age, person-centred, tailored employability service. It is aimed at a range of people including women who have experienced violence and trauma.

Rape Crisis Scotland: VAWG workers have expressed continued frustration at 3-year funding cycles, with this preventing long-term solutions to VAWG.

Scottish Women's Aid: The Scottish Parliament passed the law referred to above [Domestic Abuse (Protection) (Scotland) Act in 2021, but no element of the Act has been implemented. Changes to tenancy regulations that would allow social landlords to evict abusers rather than women and children having to leave home and EBOs would make women and children safer.

Article 22: Specialist support services

*UK Report: 39 Scottish Women's Aid services provide 387 bed spaces across **Scotland**. A level of service is offered 24/7 nationally through a helpline. Local services times may vary; any out of hours services needed by refuge tenants are supported through on call workers. Services are available to women and children/young people who are experiencing/have experienced domestic abuse. There are an estimated 13,660 adult referrals into Scottish Women's Aid services. Funding varies, with the majority coming from Scottish Government and local authorities. Outreach and community-based services are free.*

There are 17 local Rape Crisis Centres (RCC) across Scotland providing support and advocacy to survivors in all but one local authority area. There are 500 people employed across the Rape Crisis network in Scotland. The Rape Crisis Scotland (RAPE CRISIS SCOTLAND) advocacy services, Scottish Women's Rights Centre and 17 local RCCs provide support Monday to Friday, 9am-5pm, however some may operate outreach out with these hours. Rape Crisis Network operate to the Rape Crisis National Service Standards. The majority of rape crisis services across Scotland are open to all survivors aged 12 or above. In 2021-22, local RCCs provided support to 8,198 individuals. The Rape Crisis network receives the majority of funding from Scottish Government, although centres receive funding from other sources too. Rape Crisis Scotland and local RCCs are charities. All services provided by the Rape Crisis network are free at the point of access for survivors.

Rape Crisis Scotland: Rape crisis centres in Scotland provide life saving support to survivors of sexual violence however most operate waiting lists due to inadequate and insecure funding. Current Scottish Government funding to tackle waiting list ends in March 2024. If this funding isn't continued, rape crisis services across Scotland will be decimated, with 28 rape crisis workers

losing their jobs. Short-term funding cycles present significant challenges to developing sustainable core services and infrastructures.

Scottish Women's Aid: There are 34 local Women's Aid services in Scotland. The vast majority of the services have seen year-on-year cuts to their budgets, which include both central government and local government allocations. Many local governments have moved to competitive tendering in efforts to drive down costs. Some have funded non-specialist providers and de-funded grass-roots specialist services. The Scottish Government and the Council of Scottish Local Authorities must show stronger leadership in restructuring funding to protect specialist, survivor-led services. The Scottish Government should reinstate ring-fenced funding as recommended in the Independent Review of Funding and implement a need-based, human rights approach to funding core services.

As discussed in Article 8, The current funding structure is a historical accident, and services survive on a patchwork of funding, most from local governments (which has reduced every year for most services) and the Scottish Government (which has been level-funded and thus delivered real-time cuts). Survivors experience what we call a "post code lottery" -- geography and politics determine funding levels rather than need. Alignment of policy, practice and funding is the most effective way to bring about real change, and a stable, sustainable funding model would give specialist services the opportunity to act flexibly and meet the needs of every survivor seeking support.

Article 23: Shelters

UK Report: *Scottish Government as above in specialist services section*

Scottish Women's Convention: VAWG workers have stated that there is insufficient housing across Scotland for those fleeing violence, with this varying by council area. This is worsened across rural communities, where there is a general housing crisis. These rural areas also may have refuges for women, but due to the low populations, can be easily traceable by abusive partners.

Scottish Women's Aid: There are 387 bed spaces provided through shelter models including communal refuge and scatter flats. This number does not meet the IC standards for provision, and we fear this is reducing post covid and whilst funders are looking to reduce budgets with shelter seen as the expensive model of housing. Many Local Authorities believe they can meet the needs of women's housing needs through their Housing duty. There is a lack of housing stock available, and the provision allocated is very often unsuitable and even unsafe for women and their children.

Article 24: telephone helplines

UK Report: *The following support service helplines are available in **Scotland**: Scotland's Domestic Abuse and Forced Marriage Helpline, Rape Crisis Scotland's National Helpline, Scottish Women's Rights Centre, The Men's Advice Line, The Respect Phonenumber and SACRO's Fearfree Project. Scotland's Domestic Abuse and Forced Marriage Helpline operates in all parts of Scotland. The helpline is free of charge, operates 24/7 and follows a Privacy Notice. All call handlers have extensive training, internal and externally. Between April 2022 and March 2023 there were 7,210 calls and 12,514 total contacts (through calls, email, webchat etc). The Rape Crisis Scotland National Helpline is available to anyone in Scotland. Calls are free of charge. The helpline operates from 5pm to midnight, 365 days a year. It is a confidential service with a privacy policy. All support workers receive training and induction as well as access to ongoing training and development and quality monitoring procedures. 5,407 calls were made to the helpline in 2021-22.*

Rape Crisis Scotland: Rape Crisis Scotland currently run a national helpline for anyone affected by sexual violence. It is funded to provide a 7 hour per day service, operating from 5pm-midnight,

7 days per week. There is a high level of unmet need. A recent report from the Strategic Funding Review of VAWG services recommended the Rape Crisis Scotland helpline and the Domestic Abuse and Forced Marriage helpline, run by Scottish Women's Aid, recommended both helplines are replaced by a single helpline, citing the Istanbul Convention as justification. We believe that moving away from a specialised helpline for sexual violence in Scotland would be a deeply regressive move for survivors of sexual violence in Scotland and may lead to fewer survivors feeling able to access appropriate support. Sexual violence requires a specialised response from a specialist workforce which we believe would be lost through the provision of a more generic service. Feedback gathered from survivors tells us that, for many, contacting the National Rape Crisis Scotland Helpline has been a vital part of their healing journey from sexual violence. It is our experience that due to the high levels of stigma around sexual violence, many survivors only feel safe to disclose their experiences within a specialist service and we have concerns that amalgamating the two national helplines into a more generic VAGW helpline would further silence survivors of rape and sexual violence. A more generic VAWG helpline may create barriers to access for survivors who did not experience violence or abuse in the context of intimate partner violence, for example survivors of childhood sexual abuse.

Scottish Women's Convention: Some women have expressed concern over the increased usage of telephone lines across Scottish services, however those who work within VAWG support services have explained that a move to technology allows more survivors to be helped. They have stated positive views surrounding increased telephone consultation, with this being highlighted during the Covid-19 pandemic.

Scottish Women's Aid: Scottish Women's Aid runs the national helpline for domestic abuse and forced marriage in Scotland and Rape Crisis Scotland run a national helpline for anyone affected by sexual violence. We support the continued provision of distinct helplines, although we see the merit in adding some mechanism that facilitates easy access to both through, for example, one number. It is an approach that recognises the unique needs of survivors and avoids potential barriers.

Helplines have seen a significant and enduring increase in demand since the pandemic. Scotland's Domestic Abuse and Forced Marriage Helpline will respond to 127% more contacts in 2023/24 than were handled in 2018/19: a significant change in the nature of the service.

There have been challenges with Scottish Government funding for helpline operations. The competitive tendering process, coupled with the awarding of fixed-price commercial contracts, has led to underfunding and understaffing. Helplines operate within constrained budgets, always aware of the risk of contract loss to non-specialist providers in the competitive process when pricing services. Contracts have been typically fixed for two years, with three optional one-year extensions, creating uncertainty and insecurity that impede effective future planning. The resource-intensive nature of the tendering process detracts from the primary mission of delivering services.

Rigid contracts have not accommodated the changing circumstances faced in recent years such as the ongoing cost of living crisis. For example, Scotland's Domestic Abuse and Forced Marriage Helpline contract could not be varied to allow for a higher than anticipated raise to staff salaries in response to cost of living increases. As a result, Scottish Women's Aid have been subsidising the running of the service out of reserves to cover this additional cost to ensure staff are paid fairly.

[Article 25: Support for victims of sexual violence](#)

Rape Crisis Scotland: Local services are in operation in various locations throughout Scotland, however, there remain huge gaps in service with centres rendered inaccessible due to their location or distance from the survivor's local area, not enough support arrangements in place to assist survivors in accessing these services and there is also a lack of consistency in service, some offering advocacy services within the same location, some not.

Scottish Women's Convention: Women from rural areas have stated that immediate support is lacking for survivors of violence. They have highlighted that due to a total lack of service provision across health and justice, victims may have to travel significant distances to access vital services, which will inevitably assist the police in creating a case against a perpetrator.

Article 26: Protection and support for child witnesses

UK Report: *In Scotland, through the implementation of the Scottish approach to Barnahus, known as Bairns' Hoose, all children who have been victims of, or witnesses to, abuse or violence, as well as children under the age of criminal responsibility whose behaviour has caused significant harm or abuse, will have access to trauma-informed recovery, support and justice. National Bairns' Hoose standards have been developed and the Pathfinder phase of Bairns' Hoose development commences in 2023.*

The Vulnerable Witnesses (Criminal Evidence) (Scotland) Act 2019 improved how child and vulnerable witnesses participate in the criminal justice system by enabling the much greater use of pre-recording of their evidence in advance of the criminal trial. The Act created a new rule for under-18s to ensure that where they are due to give evidence in the most serious cases, they will have it pre-recorded, usually by the special measure "evidence by commissioner". The principles underpinning the Scottish Child Interview Model for Joint Investigative Interviews will be a fundamental aspect of Scotland's national Bairns' Hoose model, to ensure that interviews are conducted with the best interest of the child as a primary consideration.

Scottish Women's Aid: Scottish criminal and civil justice systems continue to operate in silos, and women and children experiencing domestic abuse suffer trauma and re-victimisation every day because of the failure to address the fault in the system. See text in Articles 29 and 31.

Children are not 'witnesses' but victims. Historically, children have been seen as witnesses or "collateral damage" by the justice system, which ignores the research demonstrating that children are harmed directly by abuse aimed at their mothers and are victims of coercive and controlling behavior whether it is directed at them or not. If children are in a family where there is domestic abuse, they are victims of that abuse—to paraphrase David Mandel of Safe & Together, domestic abuse is a parenting choice by the abusive parent.

Prior to passage of the Domestic Abuse (Scotland) Act 2018, victim advocates, children's rights organisations, and researchers challenged accounts that ignore children's direct experience of coercive control, and SWA and children's rights organisations argued unsuccessfully for children to have the status of "co-victims". However, the Act re-frames the experience of children and young people in some helpful ways, constructing them as experiencing the abuse rather than merely witnessing it. This is achieved through section 5 of the Act (<http://www.legislation.gov.uk/asp/2018/5/section/5>), which deals with 'aggravation in relation to a child'. Section 5 does not require the prosecutor to prove harm for an aggravation, using the same reasonable person test as in the core offence for the adult victim. Unfortunately, feedback from evaluations of implementation of the Act and from our services demonstrate that the existing aggravation has done little or nothing to improve children's experiences: police continue to minimise harm to children, and the gaps between criminal proceedings (where the abusive parent's actions are discussed) and civil proceedings (where custody and contact decisions are made) mean that unsafe contact and retraumatisation of both children and mothers continues, enabled by the courts. [Sources: Callaghan, J.E.M., J.H. Alexander, J. Sixsmith, L. Chiara Fellin. 2018. Beyond "Witnessing": Children's Experiences of Coercive Control in Domestic Violence and Abuse, *Journal of Interpersonal Violence*, 33(10), pp. 1551-1581; Katz, E. 2015. *Surviving Together: Domestic Violence and Mother-Child Relationships* (PhD thesis, University of Nottingham); Katz, E.

2016. Beyond the physical incident model: How children living with domestic violence are harmed by and resist regimes of coercive control, *Child Abuse Review*, 25(1), pp. 46–59; Morrison, F. 2015. 'All over now?' The ongoing relational consequences of domestic abuse through children's contact arrangements, *Child Abuse Review*, 24(4), pp. 274–284; Morrison, F., and E.K. Tisdall. 2013. Child contact proceedings for children affected by domestic abuse: A report to Scotland's Commissioner for Children and Young People. <https://www.cypcs.org.uk/publications/domestic-abuse>; Morrison, F., and F. Wasoff, F. 2012. Child contact centers and domestic abuse: victim safety and the challenge to neutrality, *Violence against Women*, 18(6), pp. 711–720.]

Scottish Women's Convention: Women have stated that children are continuously not listened to across the justice and social work system. Despite at times being asked to feed into decision-making processes, this is regularly dismissed by officials, and often causes further trauma and suffering.

"...they recommend family mediation. I mean I've got children on my caseload who are terrified, they're wetting the bed, their mental health is terrible....Again, I can work with children until I'm blue in the face, but the courts, social work and children's hearings, they're not getting the whole picture. And they're making decisions that are affecting the children...They say that children have rights, that they should be heard, and yeah okay, they're heard, but they're not listened to."

- VAWG support worker, 2023

Close the Gap: In the workplace, VAWG is underreported. There is a lack of confidence in reporting systems which is a result of a lack of clarity on how to report, lack of support from line managers, or previous negative experiences reporting. In data collected from surveys and focus groups rolled out to the public and third sector, the majority of women who had experienced VAWG did not report to their employer. If they did report, they shared that they were not satisfied with how their report was handled. Many respondents also shared that they wouldn't report because of an assumption that it would not be taken seriously or that they would be blamed. Workplace need to improve reporting mechanisms. Equally Safe at Work supports employers to do this, however, there are challenges with communicating this across workforces and highlighting VAWG as a workplace issue.

Scottish Women's Convention: Women continue to feel uneasy surrounding reporting. Young women in particular do not feel empowered to report, and when assault is noted, they feel discouraged by educational establishments to take their complaints further.

Article 31: Custody, visitation rights and safety

UK report: *In Scotland, section 11 of the Children (Scotland) Act 1995, which is the key legislation on contact (visitation) and residence (custody), provides that when deciding whether to make an order, and what order to make, the welfare of the child must be the court's paramount consideration. In that assessment the legislation requires the courts specifically to have regard to:*

- *the need to protect the child from abuse;*
- *the effect that abuse (including abuse of another person, such as the child's mother), or the risk of such abuse, might have on the child; and*
- *the effect any such abuse, or the risk of abuse, might have on the ability of a person with responsibilities for the child, such as the child's mother, to fulfil those responsibilities. When granting a contact order under section 11 the court can order that contact must take place at a child contact centre and that contact is supervised by an independent person to ensure the safety of those involved. Solicitors and individuals can also make referrals to these services.*

The Scottish Government is implementing the regulation of child contact centres to help ensure they are safe, child-friendly and conflict-free places. The Scottish Government is putting an independent regulatory body in place to help ensure child contact centre staff are skilled and trained, for example in understanding domestic abuse and coercive control.

Scottish Women's Aid: There are consistent concerns that children's views are not considered in family law proceedings (<https://womensaid.scot/wp-content/uploads/2022/07/The-Rise-Report-Final.pdf>). Children often feel pushed into contact with an abusive parent despite expressing a clear view against this and contact not being in their best interests (<https://everydayheroes.sps.ed.ac.uk/wp-content/uploads/2018/11/everyday-heroes-briefing2-Justice.pdf>). Research in Scotland³ demonstrates that allegations and concerns of domestic abuse underlie many, if not the majority of, disputed contact cases that reach courts (CAFCASS & Women's Aid. 2017 [Allegations of domestic abuse in child contact cases](#); Mackay, K. 2013 [The treatment of the views of children in private law child contact disputes where there is a history of domestic abuse](#), Scotland's Commissioner for Children and Young People.) Family law systems and procedures need to be able to deal with allegations of domestic abuse and work to eradicate barriers to implementing children's participation rights. The Scottish Government's Justice department has acknowledged at least since 2017 (in discussions with children's rights and VAWG groups re proposed new domestic abuse law, subsequently passed in 2018) that the gap between criminal and civil cases in Scotland means that judges hearing child visitation and custody cases rarely have the information they need to assess the safety of any contact with an abusive father. A system of one-family, one-judge would remove this gap, but neither the judiciary nor the government have made any attempts to test this system, which has been adopted in jurisdictions across the world.

Young survivors' group *Yello* called for greater recognition of the impact domestic abuse can have on children and young people and the need for support to ensure their voices are heard. Several of the calls were incorporated into the Children (Scotland) Act 2020, including a positive presumption that all children were capable of forming a view, advocacy for all children in the civil justice system and better protection for victims and witnesses. However, progress on the implementation of the Children (Scotland) Act 2020 has stalled. [Scottish Women's Aid (2019). Young Expert Group (Yello!) Response to Call for Views on the Children (Scotland) Bill <http://bitly.ws/xysf>]

There is an urgent need to implement the system of child advocacy that was intended to be enacted through the Act. The absence of an advocacy infrastructure means that children are routinely disenfranchised from their rights as set out under the UNCRC.

The Act also promises statutory regulation for the appointment, training and evaluation of child welfare reporters and child contact centres, much needed. *"The child welfare reporters should spend a lot of time training and working with experts on domestic abuse. They should be specialised in that area. It is not good enough to only have a few days training"* Yello young expert group⁴

Contrary to Article 11 of the Istanbul Convention, no routine data is available on courts practices and outcomes in relation to disputed contact in Scotland. Data needs to be collected and made available to monitor the following: decisions made by court; the nature of cases (e.g., where there are allegations of domestic abuse); how children's participation rights were implemented; children's experiences of the process (including their participation rights). Without robust

³ Scottish Government. 2019 [Family Justice Modernisation Strategy](#)

⁴ <https://womensaid.scot/wp-content/uploads/2019/12/Yello-Response-to-Children-Scotland-Bill-call-for-views.pdf>

disaggregated data on courts practices it is not possible to monitor the implementation of children's rights in this context.

Scottish Women's Convention: VAWG support workers have stated that due to a continued push from social work, abusive fathers still often have access to their children. This can cause further abuse, through coercive control or further physical abuse. Those who have experienced abuse explained that the thought have ex-partner having access to their child, without supervision, is a major barrier to leaving abuse.

Article 33: Psychological violence

Scottish Women's Aid: Section 1 of the Domestic Abuse (Scotland) Act 2018 (DASA) criminalises coercive and controlling behaviours. Progress in implementation of the Act was hampered by Covid and over-reliance on one-off trainings for police and judges, which were not evaluated in terms of outcomes. Slow progress has been made in numbers of prosecutions made under Section 1.

Findings from Scottish Gov funded research about experiences of survivors under the Act, however, revealed very serious system failings. Findings from an independent inspection of front-line policing (2023: <https://www.hmics.scot/publications/hmics-thematic-inspection-domestic-abuse-phase-1>) reveal serious deficiencies in identification of risk, especially in the context of coercive control, which is a strong signal for high risk and lethality: "Police Scotland should urgently take steps to ensure there is a clear and consistent process for recording victim safety plans, supported by additional training in risk assessment and safety planning for all relevant officers, staff and supervisors" and "Police Scotland should ... [a]s a matter of priority, introduce a programme of mandatory CPD on key topics for all operational officers, supervisors and managers. Key topics for the first year should include: DASA offences, to improve officers' understanding and use of the legislation; trauma informed practices, to improve engagement with victims; and lived experience of victims, to address problematic attitudes and behaviours." Feedback from our Helpline and from our network of services confirms that women and children involved in police calls rarely feel like their concerns were taken seriously or that risk is properly assessed. The recommendations from the Inspection need to be implemented with urgency and the impact of implementation measured and reported.

Article 36: Sexual violence, including rape

Rape Crisis Scotland: Many survivors of sexual crime engaged with Rape Crisis Scotland's consultation on the Victim, Witnesses and Justice Reform (Scotland) Bill. Their comments can be found in the RCS submission to the Criminal Justice Committee of the Scottish Parliament: https://www.rapecrisisscotland.org.uk/resources/1694087436_RCS-Bill-evidence-final.pdf

Article 40: Sexual harassment

Close the Gap: Cases of sexual harassment at work occur at high levels and yet actions taken to address or prevent it are often implemented after an incident has occurred. Research from Zero Tolerance found that 70% of Scottish women experienced or witnessed sexual harassment in the workplace. In data collected through Equally Safe at Work, 75% of survey respondents working in the public sector had experienced or witnessed sexual harassment in the past 12 months. Recent data published in the British Medical Journal found that 63% of women working in UK surgical workforce had experienced sexual harassment. In addition, research from TUC found that women in the UK between the ages of 18-24 had experienced sexual harassment. There is a need for further legal requirements to be placed on employers to take action to prevent sexual harassment,

including third party harassment, and providing adequate and appropriate support to victim-survivors. The changes to the Worker Protection Bill demonstrate that protecting victim-survivors and preventing sexual harassment is not seen as a priority. Sources: <https://www.zerotolerance.org.uk/resources/Sexism-is-a-waste---the-need-to-tackle-violence-and-misogyny-in-Scottish-workplaces-15.pdf>; <https://www.equallysafeatwork.scot/resources/Findings-from-the-evaluation.pdf>; <https://academic.oup.com/bjs/article/110/11/1518/7264733>; <https://www.tuc.org.uk/sites/default/files/SexualHarassmentreport2016.pdf>

Engender: The current response to sexist and sexual harassment (SSH) is inadequate, especially in relation to harassment in the workplace. Employment law and equality law are both reserved to the UK Government. In October 2023, the Worker Protection (Amendment of the Equality Act 2010) Bill received Royal Assent in the UK Parliament. This Bill reinstates provisions in the Equality Act that make employers liable for the harassment of employees by third parties, such as a client or service users, after this was repealed by the UK Government in 2013. Following this, the Equality and Human Rights Commission (EHRC) will update its technical guidance on sexual harassment in the workplace to reflect this new duty. The UK Government also agreed to a statutory Code of Practice for employers to prevent and respond to sexual harassment to complement this technical guidance.

It is crucial that this statutory underpinning is introduced as soon as possible as, until then, specified prevention work and enforcement mechanisms that ensure employers are addressing sexual harassment in the workplace are, in essence, voluntary. This new Code of Practice must outline preventative steps that different employers must take and situate sexual harassment as an issue of intersectional gender inequality and VAWG.

Sexual harassment in the workplace is generally treated under civil rather than criminal law, although egregious instances are sometimes reported to Police Scotland. As noted in the Scottish Government's Working Group on Misogyny and Criminal Justice report of March 2022, "[t]oo often, conduct in the workplace which is essentially criminal, such as sexual assault, Communications Act offences (involving offensive material sent to computers), sexual harassment and stalking, are considered the domain of employment law." There is a need for further consideration of the overlap between any new criminal law provisions, such as the Scottish Government's proposed misogyny laws, and existing workplace protections under the Equality Act, including guidance on when criminal law is a more appropriate response. Despite employment law being reserved, there are some opportunities within the devolved for the Scottish Government to also take further action on sexual harassment in the workplace and improve outcomes for women. In particular, the Scottish Government should develop a gendered strategy for preventing workplace sexual harassment in co-production with women's organisations.

Employers across Great Britain are also required to provide a safe working environment under the Health and Safety at Work Act 1974. Where health and safety risks are identified by the employer, action must be taken to remove or minimise these risks. However, the Health and Safety Executive (HSE), the body responsible for regulating this legislation across Great Britain, does not consider sexual harassment to fall within its remit. The Partnership on Health and Safety in Scotland (PHASS) is a collaboration between the HSE, Scottish Government, NHS Scotland, local authorities, trades unions and other stakeholders, which reflects the impact of health and safety on devolved areas of competence. As with the HSE, the PHASS has also not developed a focus on workplace sexual harassment. Therefore, health and safety legislation fails to provide women protection against the most common form of VAWG at work. The UK Government should resource the HSE to include prevention and regulation of sexual harassment as a strategic priority and integrate gender mainstreaming throughout its operations. In addition, the Scottish Government should assess what it can do to ensure sexual harassment is treated as a health and safety concern in Scotland.

Public sector employers in Scotland are also subject to the public sector equality duty (PSED), outlined in the Equality Act. PSED obliges all public authorities in Scotland to act, including with regard to employment, in a way that will proactively reduce discrimination, advance equality, and promote good relations between different groups across nine 'protected characteristics', including sex. Although sexual harassment is an issue that falls within the ambit of the PSED, this is not apparent in public bodies' performances of PSED in Scotland. Of a sample of public bodies' equality outcomes in 2017, only eight per cent mentioned gender or sex as a target protected characteristic, and none proposed concrete action on sexual harassment. The Scottish Specific Duties (SSDs), PSED regulations specific to Scotland, are currently under review by the Scottish Government. From this review, the Scottish Government must introduce a duty regarding the prevention of sexual harassment. In the absence of strong regulatory drivers, sexual harassment prevention work in Scotland and the UK currently varies significantly across employers; it is unsystematic and largely ineffective. A more radical approach to the regulatory environment is urgently needed. For effective enforcement to take place, all relevant regulators should be resourced and encouraged to undertake proactive oversight of employers' work to prevent sexual harassment, in addition to the narrow and responsive approach that is currently possible.

Engender has worked with specialists in academia and employment law to develop a gold-standard model policy for preventing and addressing sexual harassment in the workplace. We call on the Scottish Government and public bodies to adopt this policy and encourage other employers to use it wherever possible.

Rape Crisis Scotland: Employment Law is a power reserved to the UK Government. Recently, during the committee stage of the Worker Protection (Amendment to the Equality Act 2010) Bill, aspects of the Bill which sought to introduce liabilities for employers for third-party harassment were lost.

Scottish Women's Convention: The Scottish Government has committed to bring a 'Misogyny Law' to Parliament to make misogynistic behaviour a punishable offence. Women believed that more had to be done to reduce misogyny, believing that this consistent undertone, promoted violence against women and girls, as well as women's continued discrimination. However, some women struggled to see whether this would effectively change the general culture around misogyny and believed that more targeted efforts had to be carried out, in relation to crimes of violence and harassment.

“There’s a belief that disabled women are inherently kind of asexualised. So, someone showing an interest in you is a compliment, and that [disabled women] should be really grateful for anyone who does show an interest in them.”

“Many of the things I have reported have been dismissed as “banter” and I have been told that I have not understood, because I am a foreigner.”

Participants of Engender's 'Tackling sexual harassment in the workplace' report [Tackling sexual harassment in the workplace | Engender](#)

Article 51: Risk assessment and risk management

UK Report: *In Scotland, MARACs are recognised nationally as best practice for addressing cases of domestic abuse that are categorised as visible high-risk of serious harm or homicide. 32 MARACs are available across all 29 local authority areas in Scotland. Police Scotland use a domestic abuse risk assessment tool as part of an approach to respond to those at the highest risk*

of physical harm, to prevent domestic homicides. The tool is also used by many organisations and specialist domestic abuse services in Scotland, including through all 32 MARACs.

The Domestic Abuse Awareness Raising Tool (DAART) is an online resource for all professionals which provides an overview of the main considerations when responding to domestic abuse including coercive control.

Scottish Women's Aid: We are working with Scottish Government to understand the way forward in terms of assessing risk of women and children experiencing DA but disagree that MARAC as it operates in Scotland is "best practice" or even good practice in some areas. Despite some pockets of excellence, MARACs often offer too little protection too late. Evaluations continue to focus on the process of MARAC rather than the outcomes for survivors. We think Scotland needs a new model that is not dominated by police and local authorities and that shares leadership and resources. In addition, for 4 years we have been calling for Police Scotland to respond to convincing research that the DASH—the police risk assessment tool—is insensitive to coercive control and therefore to the most important indicators of lethality. We are advocating for piloting or implementation of domestic abuse risk assessment (DARA) tool developed and tested by the College of Policing. See <https://pubmed.ncbi.nlm.nih.gov/37304041/> Report from The College of Policing.

Article 52: Emergency barring orders

UK Report: *In Scotland, where the police suspect someone of domestic abuse, they have a power to detain a suspect prior to charge, or to release on undertakings, which may include a requirement that the accused does not approach the residence of the complainer or do anything else to harm or intimidate them. Equally, where the suspect is charged, the court can make it a condition of bail that an accused cannot return to the complainer's home or otherwise interfere with or intimidate the complainer. When the Domestic Abuse (Protection) (Scotland) Act 2021 comes into effect, Domestic Abuse Protection Notices (DAPNs) will be able to be made by senior members of Police Scotland. They will be a short-term way to offer immediate protection from domestic abuse. Where Police Scotland make a DAPN, they will then apply to the court for a Domestic Abuse Protection Order (DAPO) which can provide protection to a person at risk of domestic abuse for up to three months.*

Scottish Women's Aid: The Domestic Abuse (Protection) (Scotland) Act was passed in 2021, and no date for implementation has been announced. The Scottish Government and Police Scotland need to do so immediately and commit to evaluation and public reporting. Women and children need the protection promised as well as other elements of the law such as regulations re tenancies such that abusers can be evicted from joint tenancies without victims having to leave also.

Article 53: Restraining or protection orders

UK report: *In Scotland, Non-harassment Orders can be granted in civil courts or imposed in criminal courts. In 2019-20 one Non-harassment Order was granted in a civil court, where it was the principal charge. Information is not held on the numbers of Non-harassment Orders imposed in criminal courts. 73 Sexual Offences Prevention Orders (SOPOs) were imposed in 2021-22, and 75 in 2022-23.*

In 2019-20, 220 people (213 males and seven females) were convicted of breaching a Non-harassment Order previously imposed in the criminal court, where it was the main charge. In the same year 31 people (30 males and 1 female) were convicted of breaching a Non-harassment Order granted in the civil court, where it was the main charge. There were 55 breaches of SOPOs in 2021-22 and 50 in 2020-21. 20 Of those convicted of breaching a criminal imposed Non-harassment Order, 89 were given a custodial sentence, 45 a Community Payback Order, 42 an

admonishment, 25 a fine, 18 a Restriction of Liberty Order, and one a Supervised Release Order, where it was the main punishment. Of those convicted of breaching a Non-harassment Order granted in a civil court, 10 were given a Community Payback Order, nine a custodial sentence, five an admonishment, three a fine and three a Restriction of Liberty Order, where it was the main punishment. This data is not held with regard to SOPOs.

Rape Crisis Scotland: Although protection orders are open to survivors, currently there is too high a bar to qualify for special measures in such actions. The Victims, Witnesses and Justice Reform (Scotland) Bill goes some way to addressing this but doesn't go far enough to enable the same protections as afforded complainers in a criminal action.

Article 55: Ex parte and ex officio proceedings

UK report: *In Scotland, the Crown Office and Procurator Fiscal Service is Scotland's independent prosecution service and is headed by the Lord Advocate, Solicitor General and Crown Agent. Prosecutors make decisions independently and in the public interest, following the process set out in the Prosecution Code and any other relevant policy or guidance, for example this.*

In Scotland, consent of the victim is not required to initiate or continue criminal proceedings. It is understood that for complex reasons victims may disengage from the criminal justice process, seek to retract their statements or withdraw support for a prosecution. While the views of the victim will be taken into account, final decisions on whether to discontinue proceedings are for prosecutors based on an assessment of the public interest.

Rape Crisis Scotland: Legislation permits an application to have a supporter present at the trial, however, this is not something the survivor can apply for themselves and relies on an application by the prosecutor and, even then, only applies to giving evidence at the trial. This right does not extend to other stages of the process e.g. precognitions.

Article 56: Measures of protection

UK Report: *In Scotland, the Criminal Procedure (Scotland) Act 1995 provides that vulnerable witnesses are entitled to give evidence with the benefit of having a support present with them in the courtroom (or other location if giving evidence remotely). This includes all child victims and witnesses as well as victims of sexual offences, human trafficking, domestic abuse and stalking. That support person may be a relative, friend, support worker or someone else. In addition, the Witness Service is provided by trained Victim Support Scotland staff and volunteers at all high court and sheriff court locations. They can give practical help and information on what happens at court including conducting court familiarisation visits or virtual tours of courts and acting as an in court supporter for vulnerable witnesses. Supporters for vulnerable witnesses do not participate in proceedings – their role is to offer support to the victim or witness whilst giving evidence.*

In Scotland, the Victims and Witnesses (Scotland) Act 2014, in conjunction with the Victims' Code for Scotland, sets out the various rights and support services available to victims, including rights to information, protection, protection of privacy and other aspects mentioned in Article 56. Victims and witnesses are entitled to a certain level of support and information from the organisations they deal with in the criminal justice system. This is set out in the Standards of Service, a document which explains what victims can expect at each stage of the criminal justice process and where they can seek help and advice. Both criminal and civil courts in Scotland provide a range of special measures, which are provided for in the Vulnerable Witnesses (Scotland) Act 2004 and the Criminal Procedure (Scotland) Act 1995.

In Scotland, standard special measures which child witnesses under the age of 18 have a right to use are: a live television link where the witness is in another part of the court building; a screen; and a supporter. The Children (Scotland) Act 2020 offers further protections for victims and children during the family court process in cases involving domestic abuse.

The Victims, Witnesses and Justice Reform (Scotland) Bill, introduced to the Scottish Parliament on 25 April, aims to ensure victims are treated with compassion and their voices are heard by embedding trauma-informed practice across the system and requiring justice agencies to make efforts to reduce re-traumatisation. It will establish an independent Victims and Witnesses Commissioner for Scotland to champion victims' and witnesses' rights. The bill will also safeguard vulnerable parties and witnesses in civil cases through extending special measures and protecting people who have suffered abuse from being cross-examined by their abuser.

Rape Crisis Scotland: In practice the institutions and organisations involved in the criminal justice process are failing to adequately meet these provisions. E.g. survivors not informed of perpetrator's release, not kept informed, not having views presented, survivors and accused having to access the court by same routes/staying in same hotels. Re interpreters – generally not showing gendered understanding/trauma informed when appointing interpreter.

Article 57: Legal Aid

UK Report: *In Scotland, a complainer is not a party to criminal proceedings and there is no provision for legal aid for them in the proceedings. A victim of a crime could access a type of publicly funded legal assistance called 'advice and assistance' (A&A) which is legal advice short of representation, in relation to those proceedings, subject to statutory eligibility tests. For civil proceedings (e.g. a domestic abuse interdict), a victim may access publicly funded legal assistance (including representation) subject to statutory eligibility tests. In either case, where the individual's financial circumstances fall below a certain threshold, legal assistance will be provided without their being asked to pay a contribution. The Scottish Government has committed to providing an automatic right to state-funded independent legal representation for complainers when applications are made to lead evidence of their sexual history or 'character' in sexual offence cases. Legislative reforms are proposed under the Victims, Witnesses and Justice Reform (Scotland) Bill.*

Rape Crisis Scotland: Although there may be circumstances where legal aid or legal advice and assistance may be available to victims of domestic abuse in a civil matter, such as divorce, there is no general entitlement for survivors of sexual offences in criminal cases. The Victims, Witnesses and Justice Reform (Scotland) Bill, as it stands, will create for a right to legal representation insofar as s. 275 applications, with the expectation that legal aid will be available following the case of WF Petitioner in 2016, however, the Bill contains no amendment to the Legal Aid (Scotland) Act 1986 to give this legislative backing.

Scottish Women's Aid: The Legal Aid system in Scotland is entirely unfit for domestic abuse cases. Survivors and staff across Scotland report having to make upwards of 20 or 30 calls to find a solicitor at all, much less one who takes Legal Aid cases. Even in the best of cases, with a solicitor who understands domestic abuse and takes on new clients, Legal Aid will cover only some of the services survivors need, and eligibility is means tested, which is a farce in domestic abuse cases, where we know over 90% of survivors experience multiple forms of financial abuse. Problems are particularly acute in rural and island communities, of which Scotland has many (Scotland has more coastline than the USA). In Shetland, an archipelago to the north of mainland Scotland, there has not been a Legal Aid office for over 5 years. SWA has, with the help of private funding, developed and tested a model that hosts specialist domestic abuse legal services in a specialist service such as a local Women's Aid. The model evaluated extremely well after a year (evaluation available on request), and the Scottish Government has extended the funding of this pilot for 3 years "with a view to scaling up." SWA remains concerned that no action plan is in place for scaling up, no analysis of whether the model, tested in Edinburgh, would be right for rural and island services. We know that unless these processes start up immediately, scaling up will not happen and women and children will continue to have little or no access to justice when experiencing domestic abuse in Scotland.

Article 59: Residence status

Rape Crisis Scotland: The No Recourse to Public Funds condition attached to some migrants (including but not limited to asylum seekers undocumented migrants, those on spousal, work or student visas) prevents many migrant women from accessing the social security. One of the restrictions that NRPF places on migrants is financial and housing support. Without this safety net, women are often forced to decide between staying with the perpetrator or facing poverty, exploitation and street homelessness. In many cases, women can be denied refuge accommodation if the refuge is funded by the government. This leaves migrant women with NRPF with limited options for safe accommodation. The only exception is when it comes to children (under age 18) and vulnerable adults (that is, a person over 18 years who is unable to take care of or protect herself). By law, local authorities have the duty to protect these groups when they face destitution and homelessness. Local authorities have the power to support the child or vulnerable person and their family regardless of the NRPF condition.

Scottish Women's Convention: Those supporting refugees and immigrants to Scotland, have explained that the current system contributes to further abuse - particularly around spousal visas. They have explained that this gives partners a large amount of control over their family, amounting to coercive and financial abuse. Unfortunately, this can also lead to physical abuse, and due to visa restrictions, women are often pushed to remain within these difficult circumstances.

Article 60: Gender-based asylum claims

Rape Crisis Scotland: Immigration is a Reserved power for the UK Government. The Nationality and Borders Bill (2022) has likely to increased the number of women and survivors of sexual violence being held in detention centres and "accommodation centres" for those awaiting asylum decisions. We know that detention and accommodation centres do not have adequate safety and services for those who have experienced sexual violence and can be highly traumatising and dangerous spaces. Already, around 2000 women are held in detention centres every year across the UK, the majority of these women have experienced sexual violence (Women for Refugee Women, 2015) and despite Home Office policy being that survivors of torture and gender-based violence should not be detained in these centres, this has been frequently ignored. Increased use of detention through the passing of this bill, will only create more harm. The UNHRC has stated; "UNHCR believes the UK's Nationality and Borders Bill would penalise most refugees seeking asylum in the country, creating an asylum model that undermines established international refugee protection rules and practices."

Scottish Women's Aid: We stand united in our opposition to the UK Government's immigration policies, and the 'hostile environment', which is exacerbating gender-based violence and harming migrant women experiencing VAWG, and their children, across the UK. Immigration status remains a key barrier to reporting VAWG and accessing safety and support across our nations; the No Recourse to Public Funds condition results in migrant women who aren't in the UK on spousal visas, and therefore eligible for the Domestic Violence Rule and Destitute Domestic Violence Concession (DDVC), routinely barred from accessing refuge spaces, welfare benefits and other support services. Migration is a reserved matter for the UK Home Office and therefore the devolved nations have very limited ability to deliver reforms to support migrant women experiencing and escaping VAWG

"...if you have been a victim of domestic violence there are ways that you can remain in the UK, it's very complicated, it puts the burden on the victim, which I think is very concerning."

"...a European national came to the UK in 2018 with their partner and two children, as soon as they entered the UK, their relationship became very abusive, so he had control over everything, including her documents. In 2020, during Covid-19, he lost his job and so applied for benefits, including her as a dependent without her knowing, he also applied for the EU settlement scheme without her knowing...saying that they were married when they weren't. Meaning he lied to the Home Office, and whilst her application was pending, he left her and her children, so she was left destitute because he had control of all the finances."

- Brexit conference participants, 2022