

Scottish Women's Convention
response to the Scottish Parliament's
consultation on:

Criminal Justice Modernisation
and Abusive Domestic Behaviour
Reviews (Scotland) Bill



January 2025

Premise

The Scottish Government is proposing a new law, the Criminal Justice Modernisation and Abusive Domestic Behaviour Reviews (Scotland) Bill. This law aims to modernise procedures in criminal courts and create a process for reviewing deaths which relate to abusive behaviour within relationships. The latter proposal considers how improved learning can occur after tragic circumstances, in an attempt to reduce the likelihood of further death as a result of violence against women and girls.

As a result of these proposals, the Scottish Parliament's Criminal Justice Committee is considering the impact of changes, releasing the following consultation. Responses will then be assessed, with relevant alterations made where possible.



The Scottish Women's Convention (SWC)

The SWC is funded to engage with women across Scotland to ensure that their views are represented in policy and decision-making processes. The SWC uses the views of women to respond to a variety of parliamentary, governmental, and organisational consultation papers at Scottish, UK and international levels.

The SWC gathers information using different methods, including roadshows, thematic conferences, surveys, and both in-person and online roundtable events. This submission presents the views of a range of women, reflecting their opinions, ideas and lived experience. Working together with many other equalities organisations and community groups, we use our broad network to ensure that women from a range of backgrounds are heard and acknowledged. We are continually reviewing innovative ways of engaging with women and developing our trauma-informed and culturally sensitive practice to support vital contributions from as many women as possible.

Part 1: Virtual Attendance at a Criminal Court

What are your views on this proposal?

We welcome the inclusion of virtual attendance across Scottish criminal courts. Through discussions with women, we believe that this will be particularly valuable for women who have experienced sexual violence and/or domestic abuse. The violation that goes alongside these crimes contributes to considerable distress, preventing many women from seeking justice. For some, encountering a perpetrator of violence within a court setting can be too difficult, with current systems not providing suitable alternatives for survivors. It has commonly been expressed by women that the criminal justice system overall, lacks an effective process in handling violence against women and girls. They have pointed to comparatively low conviction rates for crimes such as rape¹, as well as regular victim blaming throughout court proceedings.

- “Even when [sexual] crimes are reported, the prosecution rates for these offences remain low. This is often due to evidentiary challenges, lengthy legal processes, and perceived biases within the system that can discourage women from seeking justice.”

Also, through this method, women who have been the victim of a crime can access justice in a trauma-informed way. Ensuring that a trauma-informed approach is taken throughout criminal justice systems in Scotland is vital in improving the experiences of victims and their families. Accessing justice remains an incredibly difficult process, with individuals asked to relive traumatic moments for the public record. Additionally, women have explained that locations, such as courts and institutional buildings, can contribute to a sense of feeling unsafe and illicit a trauma response. We therefore believe that through virtual attendance, some comfort can be provided for those in greatest need. However, this must be alongside wider training for all members of justice staff, without which, the impact of virtual attendance will be restricted. The SWC made similar recommendations in our response to the Scottish Parliament's consultation on the Victim, Witnesses and Justice Reform (Scotland) Bill². We concluded that trauma-informed practice must be fully embedded throughout the Scottish justice system, to create an equitable process for all.

Part 1: Fiscal Fines

What are your views on this proposal?

The SWC hold strong reservations surrounding the increase to fixed penalty notices (FPNs). We believe that in most cases, fines worsen an individual's outcomes, placing many into further financial hardship. It has been noted that the majority of those receiving FPNs reside in the most deprived areas in Scotland, being 11.2 times more

¹ Rape Crisis Scotland. (2024). Conviction Rate for Rape is the Lowest of Any Crime Type in Scotland. Available at: <https://www.rapecrisisscotland.org.uk/news/news/conviction-rate-for-rape-is-the-lowest-for-any-crime-type-in-scotland/>

² Scottish Women's Convention. (2023). Victim, Witnesses and Justice Reform (Scotland) Bill. Available at: <https://www.scottishwomensconvention.org/resources/victim-witnesses-and-justice-reform-final.pdf>

likely than those who live in the most affluent areas³. We would theorise that the poverty experienced by those receiving FPNs is a likely contributor to disorderly behaviour, and therefore, placing individuals into further hardship is not an effective method to reduce criminality.

Some women have expressed disappointment at the continued use of fines for minor crimes. They have explained that the increased financial burden placed on women caught shoplifting for example, does not effectively tackle underlying issues. Those consulted highlighted that these women are often desperate to provide for their families, resorting to criminal acts⁴. Instead, alternative forms of justice are recommended, which aim to provide support for those experiencing difficulty, such as restorative justice or community-based exercises.

Community-based penalties can be particularly effective when handling women, enabling them to remain within their local area. It has been noted that the removal of women from the home into a prison setting can result in worsened outcomes for the wider family unit, due to women's continued role as key care-provider⁵. While we accept that this reality is deeply rooted in systemic gender inequality, we believe that allowing women to remain with their children is likely to result in improved outcomes for all parties. We would also emphasise the need for improved support for women within the criminal justice system, highlighting the increased barriers they face throughout their lives. This support must be financially based, while also supporting women to improve their mental and physical wellbeing, as found in SWC work focusing on the impact of poverty on women in Scotland⁶.

- “They’ll [the police] say that they’re letting them off lightly with a fine, but no, that’s not letting them off lightly if you can’t afford to pay, and if you can’t afford to pay that, then you can receive a custodial sentence.”

Part 2: Domestic Homicide and Suicide Reviews

What are your views on the proposal in the Bill to create a model for domestic homicide and suicide reviews?

The creation of a domestic homicide and suicide review is a positive development within Scottish criminal justice processes. Currently, women and girls struggle to access appropriate justice when they have experienced violence at the hands of men. Many have lost their lives as a result of abuse, which is perpetuated by wider issues of misogyny and sexism. We believe that an effective review process can result in improved understanding of domestic abuse across the criminal justice system and justice access for women and girls. The suggested process includes a wide range of

³ Scottish Police Authority. (2023). Fixed Penalty Notices During the Pandemic – Public Briefing – October 2021. Available at: <https://www.spa.police.uk/publication-library/fixed-penalty-notices-during-the-pandemic-public-briefing-october-2021/socio-demographic-profile-of-fpn-recipients/#publication-parent>

⁴ Scottish Women's Convention. (2024). Women's Priorities for 2024-2025. Available at: <https://www.scottishwomensconvention.org/resources/pfg-brochure-202425.pdf>

⁵ Prison Reform Trust. (2017). Why Focus on Reducing Women's Imprisonment in Scotland? Available at: https://prisonreformtrust.org.uk/wp-content/uploads/old_files/Documents/Women/why%20women_Scotland_final.pdf

⁶ Scottish Women's Convention. (2024). The Impact of Poverty on Women. Available at: <https://www.scottishwomensconvention.org/resources/poverty-full-report-2024.pdf>

views throughout the review process, with the inclusion of third sector organisations being valuable. By including the expertise of third sector organisations who understand the complexity of domestic abuse and violence, a well-rounded review process can be developed. It is vital that during the development of this process third sector experts are consulted throughout, to ensure a comprehensive understanding of domestic abuse is taken throughout.

We would however note that these organisations are under tremendous strain as a result of reduced budgets, alongside an increase in service use. Women working in the third sector have complained of high workloads, worsened by a reduction in fellow employees. In particular, third sector employees have pointed to the short-term nature of funding streams, explaining that this contributes to uncertainty and poor staff morale. Under these circumstances, it can therefore be questioned whether third sector organisations will be enabled to effectively assist in domestic homicide and suicide reviews.

- “The [third sector] services can only do so much; they are reliant on funding which is often precarious.”
- “...charities are bearing the brunt of statutory provision. More and more charities are getting asked to support counselling sessions, trauma informed training, the burden is on charities, which the public services should be providing. At the same time, the statutory providers are pulling funding from charities”

Concerns surrounding capacity have also been shared by those working within the public sector. Women working within police departments have stated that budget restrictions have reduced policing numbers, with an increased burden placed upon remaining workers. This has led to burn-out and contributes to a cycle of consistently reduced staff levels. It is therefore vital that both public and third sector organisations selected are appropriately remunerated and resourced. This would enable effective contributions, while simultaneously providing additional support for women and girls who have experienced violence and abuse.

- “You know, talking to our staff, and [police] officers as well, their hands are tied a lot of the time. They want to help, but they can’t...they need more funding, they need more assistance”
- “...when it’s taking the police about two hours to answer a call...that is down to a lack of police officers...that’s down to staffing...it’s down to a lack of resources.”

Conclusion

Having listened to women, our three key recommendations on this topic are:

- All judicial staff must be provided with comprehensive, trauma-informed training to improve experiences of survivors of sexual assault and/or domestic violence.
- Implement community-based penalties in place of fixed penalty notices, reducing the financial burden on vulnerable women and families.
- Provide long-term funding for organisations supporting survivors of domestic abuse and/or sexual assault, enabling their full, effective participation in domestic homicide and suicide reviews.

The SWC is grateful for the opportunity to respond to the Scottish Parliament's consultation on **Criminal Justice Modernisation and Abusive Domestic Behaviour Reviews (Scotland) Bill**. As an organisation, we will continue to work with women from across Scotland to gather voices and experiences relating to this topic and its effects on women's equality.

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