

HOW TO CHANGE THE FUTURE FOR WOMEN & GIRLS

Ending Violence and Sexual Harassment Against
Women and Girls: A Consultation Paper

Society must address the crisis of rising violence against women and girls. This is a watershed moment. Women, and many men, are saying enough is enough.

Last year, the brutal murders of Sarah Everard and Sabina Nessa horrified the whole country. Prosecuting the case, Alison Morgan QC said the attack was “premeditated, not in the sense that he targeted Sabina Nessa but because it targeted any lone female”. These cases clearly explain why in 2022 women still feel so vulnerable.

Women will never be equal if we are not safe from violence. The prevalence of violence against women and girls has led to an idea that it is somehow inevitable or impossible to end. This is plain and simply wrong.

We see violence against women in every walk of life. Women and girls experience abuse by men. It should be called out for what it is.

Our young women and girls are being subjected to what has been described as “rape culture” in schools and they are increasingly subjected to pressure to send nude photographs of themselves over social media. These images are then often shared without consent.

This epidemic is rooted in the prevalence of misogyny and inequality across our society. **Scottish Labour’s Ending Violence Against Women Consultation Paper** proposes a long-term, strategic response that provides specific measures to tackle this endemic issue.

This is a consultation paper to help change the future for women and girls. In this paper there are a series of questions for answer or discussion.

We look forward to your responses.

Pauline McNeill MSP

Katy Clark MSP



YOUNG WOMEN & SEXUAL HARASSMENT

We must be alive to new threats to the safety of women and girls. So many gains were made over the past decades, but arguably, we are now seeing that progress be eroded.

The advent of smart phones and social media has meant that teenage girls are often under pressure from boys to send nude photos of themselves. It is alarming that boys as young as 9 or 10 are viewing online pornography. This, of course, affects the way they view girls and understand sexual relationships.

There have been reports of a burgeoning rape culture in schools and teenagers are experiencing sexual harassment on a huge scale. The Sunday Post found that three out of five girls have endured some form of sexual harassment. Boys need to be taught not to put pressure on girls and girls need to be empowered to say 'no'.¹

The social media age and use of SnapChat, Instagram, and TikTok can seriously harm someone's life if images are shared amongst peers. We must seek to understand exactly what's going on in schools to understand the origin of the problem of male violence whilst also giving girls the support and courage not to accept this kind of behaviour.

1 <https://www.sundaypost.com/fp/sexual-harassment-survey/>

A report last year by academics from several universities highlighted that the sending and receiving of unsolicited sexual images is becoming “dangerously normalised”. It found that over half of the boys and girls who received unwanted sexual content online or had their image shared without their consent did nothing about it. Girls also felt pressured to “trade” intimate images with boys who sent pictures unsolicited. Inevitably they were then mocked or bullied when their photos were shared among classmates.¹

Earlier this year, the University of Glasgow's MRC/CSO Social and Public Health Sciences Unit published a report on sexual harassment in secondary schools in Scotland.² The study covered pupils aged between 13-17 and found that sexual harassment is “common” in Scotland's secondary schools.

The research found that overall, almost 70% of students reported having experienced some type of sexual harassment at or on the way to school within the past three months. This included 65% experiencing something visual/verbal (e.g. sexual jokes) and 34% experiencing a personally-invasive behaviour involving contact (e.g. sexual touching).

Some survey participants reported being unsure about whether they had experienced certain behaviours; and in focus groups, participants expressed uncertainty regarding the acceptability of most behaviours.

1 <https://www.standard.co.uk/news/uk/young-girls-sent-sexual-images-apps-report-b970199.html>

2 Sexual harassment 'common' in secondary schools across Scotland - Glasgow Live

Lead author, Professor Kirstin Mitchell, said: "Sexual harassment is common, and often seen as 'normal' among teenagers at school. Our study agrees with others in this respect, but, importantly, also highlights the uncertainties which teenagers may feel around whether many behaviours generally regarded as representing sexual harassment are acceptable or not. These results have implications for the design of school-based sexual harassment interventions which, if effective, could generate long-lasting changes in attitudes and behaviours."¹

We need a seismic shift in attitudes to reverse this trend which is becoming normalised among young people.

Rape Crisis Scotland and the University of Glasgow have developed the 'Equally Safe at School' programme, which promotes healthy, respectful relationships but so far only 60 schools (out of an overall number of 357) are registered for the programme.²

QUESTION 1: How can we tackle these issues with young men and women? Is this key to long-term change?

QUESTION 2: What have been the benefits of the Equally Safe programme in schools? How could these be built upon or developed further? Should there be a programme built into the school curriculum?

1 <https://www.glasgowlive.co.uk/news/glasgow-news/sexual-harassment-common-secondary-schools-23183933>

2 <https://www.equallysafeatschool.org.uk/about-developed/>

Cyber crime has doubled in the past year and it now accounts for an estimated one-in-three sexual crimes in Scotland. Despite this rise, it is unclear whether Police Scotland has the capacity, resources and skills required to address this growing type of crime. Scottish Labour believes that the Scottish Government must consider an increase in policing capital investment to help deal with a rise in cyber crimes.

The recent report "Misogyny: A Human Rights Issue" published by Helena Kennedy KC's working group¹ drew attention to the Communications Act 2003, which makes it an offence under some circumstances to send indecent or grossly offensive communication with the purpose of causing distress or anxiety. Scottish Labour would wish to see this offence to be subject to the new Misogyny Aggravation.



1 <https://www.gov.scot/publications/misogyny-human-rights-issue/documents/>

We agree with Helena Kennedy's report that the UK Government should enact regulatory measures requiring technology companies to reveal the identity of anonymous online abusers when their conduct is grave enough to involve criminal investigation and to bar from social media those who repeatedly abuse.

The UK Government Online Safety Bill will include a new 'cyberflashing' offence with a maximum sentence of two years in prison but this is limited to England and Wales. The practice typically involves offenders sending an unsolicited sexual image to people via social media or dating apps, but can also be over data sharing services such as Bluetooth and Airdrop.¹

We also need to find new, innovative solutions to protect young people. For example, Professor Dame Sue Black, an anatomist and forensic anthropologist, has created a system that uses unique vein patterns, skin folds and blemishes to identify the hands and forearms of child abusers in the UK. So far, it has been used to secure 28 life sentences against child abusers and in 83% of the cases that have used Prof. Black's system, the abuser has changed their plea and confessed to the crime.

The European Research Council is funding Professor Black to set up the world's first searchable database of the anatomy and variation of the human hand. It is believed that the system could become as valuable as fingerprinting.²

Technology, and more specifically social media, has been used to foster a more aggressive culture towards women and girls and therefore we need to explore how technology can be harnessed to protect them.

1 <https://www.gov.uk/government/news/cyberflashing-to-become-a-criminal-offence>

2 <https://www.theguardian.com/society/2019/mar/26/sue-black-hand-recognition-database-child-sexual-abuse>

QUESTION 1: Does the new Online Safety Bill do enough to protect girls and women from online abuse/sexual abuse? Should the offence of 'cyberflashing' be created for Scotland?

QUESTION 2: What further types of technology could be used to keep women and girls safe online? What could be done specifically in Scotland to better address and tackle online/cyber sexual crime?

DOMESTIC ABUSE

The pandemic highlighted just how unsafe the home is for many women. The UN declared domestic violence as a 'Shadow Pandemic' as women across the world faced being isolated with their abuser unable to get help or any respite.¹ The charity Refuge reports that it was receiving more than 13,000 calls a month across the UK during lockdown, up by an average of 61%.² Domestic abuse encompasses not only physical violence but also, in many instances, it is an insidious pattern of coercive, controlling behaviour and psychological abuse.

In Scotland, the vast majority of violence against women comes in the form of domestic abuse. The police recorded 65,251 incidents of domestic abuse in 2020-21, an increase of 4% compared to the previous year.³ This is the fifth year in a row this figure has shown an increase.

1 <https://www.unwomen.org/en/news/in-focus/in-focus-gender-equality-in-covid-19-response/violence-against-women-during-covid-19>

2 <https://www.refuge.org.uk/a-year-of-lockdown/>

3 <https://www.gov.scot/binaries/content/documents/govscot/publications/statistics/2021/11/domestic-abuse-recorded-police-scotland-2020-21/documents/domestic-abuse-recorded-police-scotland-2020-21/domestic-abuse-recorded-police-scotland-2020-21/govscot%3Adocument/domestic-abuse-recorded-police-scotland-2020-21.pdf>

Even more concerningly, because domestic abuse usually occurs at home many, if not most incidents go unreported, making the scale of the crime largely hidden. Estimates are that between 20-25% of women in Scotland experience some form of domestic or sexual violence and around 20% of children live with it.

In the most serious situations, women lose their lives. Over the last ten years in Scotland, most female victims of homicide were killed by their partner or ex-partner. Often these women were in the process of leaving or had left their partner - a time when a woman is most at risk from lethal violence. Intimate partner violence is the leading cause of death for women - killed by men who were supposed to love them.

The Disclosure Scheme for Domestic Abuse Scotland (DSDAS) gives people the right to ask about the background of their partner. It allows them to ask if they have been abusive in the past. It is commonly known as 'Clare's Law'. It also allows concerned relatives and friends the right to ask about someone's partner.

Clare's Law, introduced in 2015, was named after 36-year-old Clare Wood who was murdered by her ex-boyfriend in 2009. She had been unaware he had a history of abuse against women.

However, there are concerns that serious violent offenders are evading justice by changing their names, which may mean a potential victim will not be alerted if they use this scheme.

Half of the 65,251 domestic violence incidents reported in 2020–21 were committed by reoffenders. In order to cut rates of reoffending the Scottish Government brought in the Caledonian System.

The system is an integrated approach to addressing domestic abuse. It combines a court-ordered programme for men, aimed at changing their behaviour, with support services for women and children.

While it is due to be rolled out in all local authorities, of the 19 local authorities it was running in during 2021, only 379 men were required to attend the Caledonian System as part of a Community Payback Order.¹ Given the very large number of police recorded incidents of domestic abuse every year, a proportionately small number of men have so far been required to follow the programme at present.

QUESTION 1: Are there ways that Clare’s Law could be strengthened? Should Clare’s Law be reviewed to encourage police officers to proactively visit the new partners of those convicted of domestic abuse?

QUESTION 2: Do you think the Caledonian System should be more widespread? Should there be more programmes to work with men who have perpetrated domestic abuse in order to cut rates of re-offending?

1 Answer to a Parliamentary Question lodged by Pauline McNeill MSP on the 31st March 2022 and answered by Keith Brown MSP on the 19th April 2022 - Question ref. S6W-07677

MEN'S RESPONSIBILITY

Scottish Labour is clear, violence against women is about power and control over them by men.

We need men to take responsibility for violence against women, not just in Scotland, but across the world. It comes in many forms from sexual harassment to domestic abuse, female genital mutilation, human trafficking, child brides, rape and femicide. Sex for rent is being advertised online, and revenge pornography and 'stealthing' are growing problems. Spiking in clubs and bars has been highlighted recently and is yet another part of this worrying picture.

For decades, there has been a lack of male voices speaking up about violence against women. But we believe that is changing. Getting men involved in the conversation at a young age, when they are still at school, is one of the key ways in which we will start to make serious inroads into society's attitudes to abuse and violence against women. We must tackle the root causes of male attitudes and male violence against women. The scale of the problem is vast and needs to be tackled with urgency.

Tackling violence against women requires sentencing changes, the creation of new offences and investment across the whole of the criminal justice system. However, legal reform in itself is not going to be enough - what we need is social change from top to bottom. We must tackle the attitudes, inequality and discrimination that underpins the abuse that women and girls face, and empower men to call out the behaviour of other men.

QUESTION 1: Are there new offences that would assist in combatting violence against women? If so, what types?

QUESTION 2: How else can we tackle society's attitudes to abuse and violence against women?



WOMEN'S EXPERIENCE OF THE JUSTICE SYSTEM

Domestic abuse and sexual crimes are rising. In the last decade (since 2012-13) most types of crime have fallen but sexual crimes have risen by 96%.¹ Shockingly, in recent years around 40% of all the sexual offences recorded by the police related to a victim who was a boy or girl under the age of 18 years.²

During the pandemic, backlogs in the high court in Scotland have disproportionately affected women and children, with sexual crimes accounting for over two-thirds of cases waiting to be heard.³ Over all types of offences, the court backlog is sitting at over 43,000 cases,⁴ with the Scottish Courts & Tribunal Service noting that it will be 2026 before the backlog is cleared.⁵

Currently in Scotland, there are restrictions on what evidence can be used in trials for certain sexual offences. For example, the court will not admit any evidence which shows or tends to show particular behaviour and sexual history about the complainer. The rule is designed to protect complainers in sexual offence trials from giving evidence about irrelevant, sensitive and private matters when it is not necessary. However, there are some exceptions to this rule and the court can allow such evidence where an application is made under section 275 of the Criminal Procedure (Scotland) Act 1995 Act.⁶

1 <https://www.gov.scot/publications/recorded-crime-scotland-2021-2022/pages/6/>

2 <https://www.gov.scot/publications/clinical-pathway-healthcare-professionals-working-support-children-young-people-experienced-child-sexual-abuse-2/pages/12/#:~:text=Recorded%20crime%20statistics%20in%20Scotland,similar%20to%20the%20previous%20yea>

3 Correspondence between Pauline McNeill MSP and the COPFS on the 01/10/2021.

4 <https://www.heraldsotland.com/politics/19944353.concerns-raised-scotlands-record-court-backlog-snp-ministers-solve/>

5 <https://www.scotsman.com/news/politics/backlog-of-court-cases-could-take-until-2026-to-bring-under-control-3487206>

6 <https://www.legislation.gov.uk/ukpga/1995/46/contents>

At the start of 2020, the Scottish Government published its response to an FOI it had received asking for data on applications made under section 275. It looked at cases between 11 January 2016 and 11 April 2016. There was a total of 57 applications made. 51 applications were unopposed while only 6 were opposed. Rape Crisis Scotland was concerned that 89% of applications, in this period, were unopposed.¹ While this is only a snapshot of applications, the fact that so few were opposed suggests that women alleging a serious sexual crime has been committed against them, need better legal representation and protection.

We need to reform the criminal justice system, we need to give victims a voice. Women who have been victims of sexual violence need to have better advice and representation.

The testimony of many victims of rape said they themselves felt like they were treated as criminals throughout - in a system where they don't feel like anyone is representing their interests. Scottish Labour will not stand by and allow our criminal justice system to treat women like this.

QUESTION 1: Do you believe that court backlogs will discourage women from reporting sexual offences?

QUESTION 2: Do you believe court backlogs may discourage victims from pursuing justice, and withdrawing from the court system?

QUESTION 3: What measures could be taken to improve women's experience of the justice system when they report a sexual offence?

1 <https://www.gov.scot/publications/foi-202000015742/>

PROPOSALS FOR JUSTICE REFORM

The Scottish Government recently ran a consultation entitled "Improving Victims' Experiences of the Justice System",¹ which contained recommendations from Lady Dorrian's Review in March 2021 "Improving the Management of Sexual Offence Cases".² These included the right to independent legal representation for sexual offence complainers where request is made to lead evidence in court which relates to their sexual history and/or bad character (under section 275), the potential establishment of a new specialist criminal court dealing with serious sexual offences, and consideration of issues relating to single judge trials for serious sexual offence cases.

Single-judge trials for serious sexual offences have also been recommended by the Lord Advocate Dorothy Bain KC as a way to speed up prosecutions and deal with the backlog in court cases.³ However, this is controversial and has a number of potential problems, for example removing the jury for some cases or a class of cases would need to be compliant with Article 6 of the ECHR convention which protects the right to a fair trial. Scottish Labour are open to consideration of Lady Dorrian's recommendation that single-judge trials are piloted for serious sexual offences, including rape. Given concerns about the unintended consequences, this would be necessary in order to fully assess their effectiveness and how they are perceived by complainers, the accused and lawyers, from a practical perspective.

1 <https://consult.gov.scot/justice/victimconsultation/>

2 <https://www.scotcourts.gov.uk/docs/default-source/default-document-library/reports-and-data/Improving-the-management-of-Sexual-Offence-Cases.pdf?sfvrsn=6>

3 <https://www.scottishlegal.com/articles/bain-doubles-down-on-judge-only-trials-as-tories-seek-to-protect-juries#:~:text=Lord%20Advocate%20Dorothy%20Bain%20QC,jury%20to%20prosecute%20a%20case%E2%80%9D>

Similarly, Scottish Labour have looked into the proposal to establish a new specialist criminal court dealing with serious sexual offences. The cases would be presided over by a mixture of High Court judges and sheriffs who had received trauma-informed training in the presentation of evidence of vulnerable witnesses.

However, it should be noted COPFS statistics record that as of 24 September 2021, sexual crime made up just over two-thirds (68%) of High Court indictments in which a trial has not started or a plea of guilty has not been tendered.¹ Some advocates have noted that this already indicates that the High Court is already a specialised court as it deals predominantly with serious sexual offences.

It is also argued that the prosecution of the most serious sexual offences including rape should be conducted in the High Court to denote the seriousness of such offending. It has been suggested the creation of any court which is perceived to be inferior to the High Court to hear these cases could downgrade the seriousness of such offending.

QUESTION 1: Would a pilot of single-judge trials for serious sexual offences be justified due to the long delays before cases come to trial and due to the disproportionate impact this has on women and children? What is the risk to fairness for the accused if juries were removed?

QUESTION 2: Would it be beneficial to establish a new specialist criminal court dealing with serious sexual offences?

1 Correspondence between Pauline McNeill MSP and the COPFS on the 01/10/2021.

STREET HARASSMENT

Abuse and verbal and physical harassment is a daily experience for women and girls on the streets of Scotland as well as the rest of the UK. Recent research by UN Women UK found that 71% of women in the UK have experienced some form of sexual harassment in a public space, rising to 86% among 18 to 24-year-olds.¹

In the first national coronavirus lockdown, a fifth of women and girls aged 14 to 21 were catcalled, followed, groped, flashed or upskirted. This rose to 51% during the summer months.²

Scottish Labour agrees with campaigners who say public sexual harassment is a crime, not a compliment. UK Labour have proposed a new street sexual harassment offence, learning from the successes of the work done on this in France.³ Similarly, Baroness Helena Kennedy's report "Misogyny: A Human Rights Issue" recommends a new offence entitled 'Public Misogynistic Harassment'.⁴

QUESTION 1: Do you agree that there should be a new offence to deal with street harassment in Scotland?

QUESTION 2: What other measures do you think might help women to feel safer on our streets?

1 https://www.unwomenuk.org/site/wp-content/uploads/2021/03/APPG-UN-Women_Sexual-Harassment_Report_2021.pdf

2 <https://www.theguardian.com/world/2020/nov/22/criminalise-public-sexual-harassment-in-uk-charities-say>

3 <https://labour.org.uk/wp-content/uploads/2021/05/Ending-Violence-Against-Women-and-Girls-Green-Paper.pdf>

4 <https://www.gov.scot/publications/misogyny-human-rights-issue/documents/>

LACK OF DATA ON VIOLENCE AGAINST BME AND DISABLED WOMEN AND GIRLS

Finally, there is a lack of data regarding violence against disabled women and girls as well as women and girls in the Black and Minority Ethnic (BME) community.

Organisations like Shakti Women's Aid aim to end gender-based violence towards BME women and children fleeing from domestic abuse, forced marriage and honour-based violence. The charity's definition of domestic abuse is wider than most, where it recognises that perpetrators can be family members, in-laws, and in some cases community members as well as a partner or ex-partner.

On top of this, BME women frequently experience additional barriers to access help and require more complex support. Specialist refuge accommodation is often needed to allow BME women to overcome some of these additional barriers such as communication, religious and dietary practices and racial discrimination.

Finally, the high global rates of gender-based violence towards disabled women are disturbing. They indicate that 90% of women with learning disabilities have been subjected to sexual abuse, with 68% experiencing sexual abuse before turning 18.¹ A small-scale study conducted in Glasgow in 2015 supports this, showing that 73% of the 62 participating disabled women had experienced domestic abuse, and 43% had been sexually assaulted.²

1 <https://www.ohchr.org/en/calls-for-input/report-sexual-and-reproductive-health-and-rights-girls-and-young-women-disabilities>

2 https://www.wisewomen.org.uk/_files/ugd/cb3167_ad86a93b9944432f920fdc47bc2d06e1.pdf

The Scottish Parliament's Social Justice and Social Security Committee noted on the 3rd March 2022 that "Despite our awareness of the issues facing women with learning disabilities in Scotland, we do not have a robust data set on women with learning disabilities experiencing forms of gender-based violence." The Fraser of Allander Institute make a similar point, "Without better data to underpin policy making, Scottish Government ambitions to improve the lives of adults with learning disabilities are unlikely to be realised".¹

We need to collect more data on the scale of violence being suffered by disabled women and girls as well as women and girls in BME communities.

QUESTION 1: What are the ways in which policy making would benefit from more data, with the goal of bringing down the levels of violence against women and girls in BME communities as well as disabled women and girls?

QUESTION 2: What other ways are there to bring down the levels of violence against disabled women and girls as well as women and girls in BME communities?



1 <https://fraserofallander.org/wp-content/uploads/2021/10/Invisible-No-More.pdf>

SUMMARY OF QUESTIONS

Young Women and Sexual Harassment

QUESTION 1: How can we tackle these issues with young men and women? Is this key to long-term change?

QUESTION 2: What have been the benefits of the Equally Safe programme in schools? How could these be built upon or developed further? Should there be a programme built into the school curriculum?

Online Crime

QUESTION 1: Does the new Online Safety Bill do enough to protect girls and women from online abuse/sexual abuse? Should the offence of 'cyberflashing' be created for Scotland?

QUESTION 2: What further types of technology could be used to keep women and girls safe online? What could be done specifically in Scotland to better address and tackle online/cyber sexual crime?

Domestic Abuse

QUESTION 1: Are there ways that Clare's Law could be strengthened? Should Clare's Law be reviewed to encourage police officers to proactively visit the new partners of those convicted of domestic abuse?

QUESTION 2: Do you think the Caledonian System should be more widespread? Should there be more programmes to work with men who have perpetrated domestic abuse in order to cut rates of re-offending?

Men's Responsibility

QUESTION 1: Are there new offences that would assist in combatting violence against women? If so, what types?

QUESTION 2: How else can we tackle society's attitudes to abuse and violence against women?

Women's Experiences of the Justice System

QUESTION 1: Do you believe that court backlogs will discourage women from reporting sexual offences?

QUESTION 2: Do you believe court backlogs may discourage victims from pursuing justice, and withdrawing from the court system?

QUESTION 3: What measures could be taken to improve women's experience of the justice system when they report a sexual offence?

Proposals for Justice Reform

QUESTION 1: Would a pilot of single-judge trials for serious sexual offences be justified due to the long delays before cases come to trial and due to the disproportionate impact this has on women and children? What is the risk to fairness for the accused if juries were removed?

QUESTION 2: Would it be beneficial to establish a new specialist criminal court dealing with serious sexual offences?

Street Harassment

QUESTION 1: Do you agree that there should be a new offence to deal with street harassment in Scotland?

QUESTION 2: What other measures do you think might help women to feel safer on our streets?

Lack of Data on Violence Against BME and Disabled Women and Girls

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QUESTION 2: What other ways are there to bring down the levels of violence against disabled women and girls as well as women and girls in BME communities?

Please send any responses to this consultation and further feedback to:

Pauline.McNeill.MSP@parliament.scot



