

Proposed Domestic Abuse (Prevention) (Scotland) Bill

Introduction

A proposal for a Bill to make provision for the prevention of domestic abuse and improve support for those affected, including by requiring: those convicted of offences related to domestic abuse to provide information for a register; use of this information to prevent further harm; use of rehabilitation measures in relation to offences related to domestic abuse; collation and reporting of data related to domestic abuse; and domestic abuse education in schools.

The consultation runs from 29 August 2022 to 20 November 2022

All those wishing to respond to the consultation are strongly encouraged to enter their responses electronically through this survey. This makes collation of responses much simpler and quicker. However, the option also exists of sending in a separate response (in hard copy or by other electronic means such as e-mail), and details of how to do so are included in the member's consultation document.

Questions marked with an asterisk (*) require an answer.

All responses must include a name and contact details. Names will only be published if you give us permission, and contact details are never published – but we may use them to contact you if there is a query about your response. If you do not include a name and/or contact details, we may have to disregard your response.

Please note that you must complete the survey in order for your response to be accepted. If you don't wish to complete the survey in a single session, you can choose "Save and Continue later" at any point. Whilst you have the option to skip particular questions, you must continue to the end of the survey and press "Submit" to have your response fully recorded.

Please ensure you have read the consultation document before responding to any of the questions that follow. In particular, you should read the information contained in the document about how your response will be handled. The consultation document is available here:

[Consultation Document](#)

[Privacy Notice](#)

I confirm that I have read and understood the Privacy Notice which explains how my personal data will be used.

On the previous page we asked you if you are UNDER 12 YEARS old, and you responded Yes to this question.

If this is the case, we will have to contact your parent or guardian for consent.

If you are under 12 years of age, please put your contact details into the textbox. This can be your email address or phone number. We will then contact you and your parents to receive consent.

Otherwise please confirm that you are or are not under 12 years old.

No Response

About you

Please choose whether you are responding as an individual or on behalf of an organisation.
Note: If you choose "individual" and consent to have the response published, it will appear under your own name. If you choose "on behalf of an organisation" and consent to have the response published, it will be published under the organisation's name.

on behalf of an organisation

Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose "Member of the public".)

No Response

Please select the category which best describes your organisation

Third sector (charitable, campaigning, social enterprise, voluntary, non-profit)

Optional: You may wish to explain briefly what the organisation does, its experience and expertise in the subject-matter of the consultation, and how the view expressed in the response was arrived at (e.g. whether it is the view of particular office-holders or has been approved by the membership as a whole).

We are the main domestic abuse service provider in Edinburgh. We have been providing specialist domestic abuse services to women and children for almost 50 years. We deliver practical and emotional support, refuge, recovery programmes, domestic abuse court support, therapeutic services and employability support as well as providing training for other agencies. The views expressed in this response were developed within the management team and in discussion with partner agencies

Please choose one of the following:

I am content for this response to be published and attributed to me or my organisation

Please provide your Full Name or the name of your organisation. (Only give the name of your organisation if you are submitting a response on its behalf).

(Note: the name will not be published if you have asked for the response to be anonymous or "not for publication". Otherwise this is the name that will be published with your response).

Edinburgh Women's Aid Ltd

Please provide details of a way in which we can contact you if there are queries regarding your response. Email is preferred but you can also provide a postal address or phone number.

We will not publish these details.

[REDACTED]

Aim and approach - Note: All answers to the questions in this section may be published (unless your response is "not for publication").

Q1. Which of the following best expresses your view of the proposed Bill? (Please note that this question is compulsory.)

Fully opposed

Please explain the reasons for your response.

The bill overall is not supported. The legislation proposed would require a further change in legislation so that domestic abuse offences are registerable; it is unclear how this would be taken forward and whether the length of registration would be tied to custodial type. There are significant elements of the proposed bill that would lead to service generated risk. However, the aspiration to support 'harder to reach' individuals from a range of cultural backgrounds is welcome but would require further consultation on how best that could be achieved and would also require significant resource to fund additional support systems. Similarly, in relation to providing domestic abuse education in schools, this is partially supported; professionals working within educational settings would be best placed to provide feedback. Providing domestic abuse education would also necessitate resourcing and providing additional support systems to support young people subsequently making disclosures.

Q2. Do you think legislation is required, or are there other ways in which the proposed Bill's aims could be achieved more effectively? Please explain the reasons for your response.

A preferred approach would be for the focus to be directed to supporting existing legislation/systems in place for managing domestic abuse and risk. Preventative structures are currently in operation (particularly Multi-Agency Risk Assessment Conference (MARAC) and Disclosure Scheme for Domestic Abuse Scotland (DSDAS) which are proving effective in providing disclosures to people who might have concerns about a partner's behaviour or by any agencies who have concerns. Referrals to DSDAS are consistently on the rise in Edinburgh and as the decision making forum element of this, with expert partners allows discussion and nuance that limits any service generated risks. It would be perhaps more prudent, financially viable and effective to ensure that these structures are better resourced than introducing new legislation. This also includes ESAS (Equally Safe at School) which covers education on violence against women and girls and equips both education staff and pupils to recognise and respond to instances of gender-based violence (including domestic abuse), this is currently being piloted and resources would be better allocated to reviewing and supporting effective roll out of this element of Equally Safe.

Domestic Abuse Register

Q3. Which of the following best expresses your view on creating a register of those convicted of domestic abuse related offences?

Fully opposed

Please explain the reasons for your response. Please include any views you have on the list of policy details set out in bold on pages 23 and 24 of the consultation document.

Please see answer at Q1. The ambition in the bill is to introduce a domestic abuse register that mirrors the Sex Offenders Register however this approach does not take account of the nuances and complexities that exist in cases of domestic abuse. A significant number of referrals into DSDAS are actually perpetrators of domestic abuse (most frequently men) whose partners (most frequently women) have used violent resistance against abuse. A number of these women (who are actually victims) have domestic abuse-related convictions in the past when in fact their behaviour is not consistent with domestic abuse but rather self-defence. Having a register means that a number of these women could potentially end up identified as domestic abuse perpetrators when in fact this is not the case. Sometimes women who have been made vulnerable by domestic abuse are preyed upon by other abusers, if she is then named in a domestic abuse register, this increases her risk and vulnerability from any new domestically abusive partners.

Rather than apply a blanket approach to perpetrators of domestic abuse, it would be helpful to consider

Q3. Which of the following best expresses your view on creating a register of those convicted of domestic abuse related offences?

and apply resources to more effective targeted management and monitoring of the those who present the highest risk and/or whose offending is most prolific.

Rehabilitation Measures

Q4. Which of the following best expresses your view of introducing mandatory rehabilitation measures for those convicted of domestic abuse?

Fully opposed

Please explain the reasons for your response. Please include any views you have on the list of policy details set out in bold on page 26 of the consultation document.

Mandatory rehabilitation is not appropriate as it does not take account of service generated risk; indeed, some men are not put forward for rehabilitative programmes as it would reinforce their existing thinking and increase risk. In some cases, men deny offences of domestic abuse and compelling them to participate in treatment will not change their attitudes and beliefs and is contrary to best practice. For interventions to be successful, participants need to be willing and open to changing their behaviours. Additionally, in cases where women end up with a domestic abuse conviction (when there is in fact no domestic abuse) would be counter-productive and a waste of resources, as well as a service-generated risk.

A preferred approach would be for more investment in current resources working with perpetrators of domestic abuse, including widening voluntary access to interventions, and increasing provision of early intervention options.

Research into the nature of domestic abuse, specifically coercively controlling behaviour shows that it is not a case of a loss of control or anger becoming out of control, but rather that the abuse is controlled and controlling. Anger management programmes are not appropriate to be used in domestic abuse situations. There is currently a robust debate about the use of restorative justice in domestic abuse crimes and this should be resolved before creating a bill that legislates for restorative justice in domestic abuse.

Data

Q5. Which of the following best expresses your view of the proposals for data collection and reporting set out in the consultation document in bold on pages 30 and 31?

Fully opposed

Please explain the reasons for your response including what information could usefully be collated and which groups in society could most benefit from improved information on their access to domestic abuse services and support.

Currently the burden of reporting domestic abuse referrals into specialist services (for Equally Safe) sits with the third sector and this proposed bill creates another line of reporting that would fall on already pressed services. While reporting on access to services should be improved, this should be as part of a conversation with the Equally Safe working groups to look at how this can be done without additional reporting burdens on the third sector. ES annual returns collect equality data as does the MARAC reporting mechanism.

Education

Q6. Which of the following best expresses your view of introducing mandatory education in schools on domestic abuse?

Partially supportive

Please explain the reasons for your response including any comments on the issues in bold on page 32 of the consultation document.

in relation to providing domestic abuse education in schools, this is partially supported; professionals working within educational settings would be best placed to provide feedback. Providing domestic abuse education would also necessitate resourcing and providing additional support systems to support young people subsequently making disclosures.

It is worth noting that Equally Safe at School is in its pilot stage and could provide a large element of this. It would make more sense for additional resourcing to be invested in what we already have rather than create something new.

Financial Implications

Q7. Any new law can have a financial impact which would affect individuals, businesses, the public sector, or others. What financial impact do you think this proposal could have if it became law?

a significant increase in costs

Please explain the reasons for your answer, including who you would expect to feel the financial impact of the proposal, and if there are any ways you think the proposal could be delivered more cost-effectively.

As mentioned in the response to Q1, the proposed bill in its current form is not supported. Compulsory rehabilitation measures would carry a huge cost in expanding existing structures and programmes, and developing new ones (e.g. Caledonian/anger management programmes) that many perpetrators are not appropriate referrals for or are not appropriate for DA. Additional resourcing required for the monitoring of the register might be better invested in existing schemes such as MARAC and DSDAS. Additional resourcing for making education mandatory might be better utilised supporting Equally Safe in Schools.

Equalities

Q8. Any new law can have an impact on different individuals in society, for example as a result of their age, disability, gender re-assignment, marriage and civil partnership status, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

What impact could this proposal have on particular people if it became law? If you do not have a view skip to next question.

Please explain the reasons for your answer and if there are any ways you think the proposal could avoid negative impacts on particular people.

The proposed legislation might unfairly and disproportionately affect victims (overwhelmingly women) who have domestic abuse-related convictions when in fact they have used violent resistance.

Sustainability

Q9. Any new law can impact on work to protect and enhance the environment, achieve a sustainable economy, and create a strong, healthy, and just society for future generations.

Do you think the proposal could impact in any of these areas? (If you do not have a view then skip to next question)

Please explain the reasons for your answer, including what you think the impact of the proposal could be, and if there are any ways you think the proposal could avoid negative impacts?

The proposed legislation might unfairly and disproportionately affect victims (overwhelmingly women) who have domestic abuse-related convictions when in fact they have used violent resistance, this would impact negatively on the aim of a just society for future generations.

General

Q10. Do you have any other additional comments or suggestions on the proposed Bill (which have not already been covered in any of your responses to earlier questions)?

It is recognised that the proposal seeks to hold perpetrators of domestic abuse to account for their actions; it would be helpful to discuss improved ways to achieve this within existing legislative frameworks for example, through liaising and working with sentencers in the first instance.

It would also be helpful to consider introducing measures to strengthen existing provision. For example, employing a targeted approach and linking additional requirements to a Domestic Abuse Protection Order or Sexual Harm Prevention Order to increase active monitoring and management. This could be applied to key individuals who are identified as presenting the greatest risk and/or who are the most prolific in their offending. This could link to Police Scotland MATAC (multi agency tasking and co-ordinating) for high-risk serial perpetrators.

There is no requirement for an additional disclosure scheme as there is provision under existing legislation to discuss risk presented in a way that limits service generated risk, is nuance and supports actions to support safety.