

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)

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).

Victim Support Scotland

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.)

Partially supportive

Please explain the reasons for your response.

Victim Support Scotland (VSS) welcomes any provisions intended to raise awareness of violence against women and girls' (VAWG) issues and the measures contained within this consultation designed to tackle

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

domestic abuse crimes and incidents in Scotland are worth considering very carefully.

We believe that there is potential merit in the establishment of a domestic abuse register and the other measures within the consultation. We have highlighted several aspects within the consultation that would require significant financial investment before becoming viable. We also highlight other areas of the proposed legislation that we would seek more clarity on before we could fully support the proposed legislation.

One of the areas we feel would require significant investment relates to the number of police resources that would be required to manage individuals on the register. As we have seen in the last year the number of police officers in Scotland have reduced by several hundred. It is also anticipated that numbers may reduce further due to the current financial limitations on budgets. Without an increase in officer numbers, we have concerns that Police Scotland would move resources from other duties to monitor those individuals on the register. This would potentially have a detrimental effect on victims of other crime types, and we would want assurances that victims of other crime types would not be disadvantaged in any way.

We agree that rehabilitation programmes for domestic abuse offences require to be more widely available in Scotland. We have concerns regarding the use of restorative justice in cases involving domestic abuse which we will cover later in our consultation response. We are not convinced about programmes being mandatory as evidence suggest that domestic abuse programmes work best with perpetrators who are willing to participate constructively with them. We believe that resources should be directed to those who are deemed to be the most suitable for such programmes. We believe that attempts should, where possible, be made to engage with a perpetrator of crime regarding their offending behaviour to reduce any risk they pose to victims and the wider public.

We agree that more information is required to improve the quality of information relating to victims of crime including domestic abuse. Knowing information about the demographic profile of victims of domestic abuse and where they are in terms of geographical location would allow support services to better provide support where is required.

We agree that there should be education in schools on domestic abuse and related issues. We do however believe that any educational material created should be of a national standard with input from third sector domestic abuse organisations. Any training should be trauma sensitive to ensure that it is suitable for children who may have been victims or witnesses of domestic abuse. A failure to do this has the potential for traumatising or retraumatising children if not done appropriately.

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.

To achieve the aim of monitoring offenders by way of a register then this aim can only be achieved through a register of some kind.

Domestic Abuse Register

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

Partially supportive

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.

We would highlight that there have been previous calls for the creation of a domestic abuse register in other neighbouring jurisdictions. The Home Affairs Select Committee in the UK Parliament recommended that a register be created for domestic violence perpetrators when commenting on the Domestic Abuse Bill 2018. In their report they said:

"...We recommend that a national register of serial stalkers and domestic violence perpetrators, as recommended by Paladin, is introduced as a matter of urgency and that individuals placed on the register should, like registered sex offenders, be managed through multi-agency public protection arrangements (MAPPA). We believe that a more integrated VAWG and domestic abuse strategy would support a better statutory response to stalking, and a more joined-up approach to supporting victims and managing the behaviour of perpetrators."¹

This was also echoed by the London Assembly which made several similar recommendations in relation to the creation of a domestic abuse register operating in the same way as the sexual offences register.²

We are also aware of stalking advocacy groups who have called for a register. Paladin (National Stalking Advocacy Service) is cited by the Home Affairs Committee in its response to the Domestic Abuse Bill 2018. Paladin called for serial perpetrators of domestic abuse and stalkers to be included on the Violent and Sex Offenders' Register (VISOR) and managed under the multi-agency public protection arrangements (MAPPA) by police and councils.³

The UK Government in its response to the requests for a register said,

"Whilst we will keep under review the case for introducing a bespoke "register" of repeat and serial perpetrators of domestic abuse, our focus remains on improving the use of existing systems rather than creating new ones which may add limited value."⁴

The use of a register to monitor serial stalker and high-risk domestic abusers is worthy of further consideration and scrutiny. VSS would like to highlight some operational applications of the register that require further consideration.

The current consultation indicates that the proposed Bill would mirror the provisions within the Sexual Offences Act 2003 which created the Sexual Offences Register. The legislation would include a list of domestic abuse related offences thus creating a Domestic Abuse Register. We have several questions related to this provision through the prism of how the Sexual Offences Register operates in Scotland.

We are aware that the police in Scotland have dedicated Offender Management Units to monitor sex offenders on the register and they work in collaboration with Criminal Justice Social worker to monitor offenders on the register. If the Domestic Abuse register were to operate in a comparable manner to the Sexual Offences Register, then similar units would need to be created to monitor offenders.

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

We would ask the question of how many police officers will Police Scotland require to resource the Units required in turn to monitor individuals on the Domestic Abuse Register. We have concerns that resources would be taken from other areas of policing which would potentially leave victims of other crime types with a reduced police resource to deal with their crimes. Equal consideration needs to be given of criminal justice social work who also play a leading role in managing sex offenders and would no doubt be needed to manage domestic abuse offenders if this were to operate in a similar model to the MAPPA process.

Police Scotland already have Domestic Abuse Investigation Units (DAIU) and a National Domestic Abuse Taskforce. These units currently investigate domestic abuse incidents including multiple partner abuse. These investigations can involve complex and long running investigations. We would also have concerns if the police diverted these investigative units to dealing with the monitoring of individuals placed on the register.

We believe that the register would only work in practise if there was an increase in officer numbers to accommodate all the requirements of monitoring individuals to the same standards that individuals who are monitored on the Sexual Offences Register.

We have received feedback from victims of crime supporting the creation of a domestic abuse register which was in the context of speaking about the Domestic Violence Disclosure scheme:

'I would like a register for domestic violence perpetrators. A register exists in Scotland but there are difficulties in applying for this. You have to go to police station, and you find out only basic details.' (Person affected by domestic abuse by their partner at the time)

The consultation document also asks several questions related to the operation of the register. We will answer these in turn.

a) What the criteria should be for someone being put on the register?

We would highlight the Home Affairs Select Committee in the UK parliament and the London Assembly have recommended serial offenders for stalking and domestic abusers to be monitored through a bespoke register. That approach would potentially require less police resources to monitor those high-risk offenders. We would need there to be assurances that proper risk assessments are carried out to ensure that the most appropriate offenders are added to the list for additional monitoring arrangements.

We would also want to ensure that females who have been convicted of a domestic abuse offence or domestic abuse aggravation are subject to scrutiny before being considered for such a register. It is common for females convicted of such offences to have been subjected to years of domestic abuse themselves and they have been convicted of an offence on the occasion that they have retaliated, or indeed defend themselves. Before placing someone on a register the court should take full cognisance of the facts of the case and background of the offender.

b) What the criteria should be for remaining on the register, and for how long?

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

VSS agrees with the consultation document that if a register is to be introduced the length of time an individual remains on the register will depend on the risk that they are deemed to pose to the community. This should be done by the Criminal Justice Social Work after a full risk assessment process is completed. We would urge that any risk assessment should be created in conjunction with the Risk Management Authority (RMA).

c) What the notification requirements should be of anyone on the register, including what information they should be required to provide initially, and what information they should be required to update where necessary?

VSS believes that it should be for those tasked with managing individuals on the register to decide what information they would require from an individual including reporting requirements were that information to change.

d) Which public bodies should have access to the information on the register and for what purposes?

If the register were to work in a similar fashion to the sexual offences register, then it would not be a public register and access to the information contained within it should be restricted to the agencies involved in the management of offenders contained within it. We would have concerns regarding the collation of information about the victim of crime and who would have access to that type of information.

The consultation document mentions that those on the register would be included in the Multi-Agency Public Protection Arrangements (MAPPAs) which are used to manage sexual offenders. That is the same approach asked for by the Home Affairs Committee. We would want some assurance that those involved in the MAPPAs process have sufficient capacity to manage the addition of domestic abuse offenders into those processes.

VSS would highlight that dealing with domestic abuse requires a multi-agency approach. In Scotland this is currently done through the Multi Agency Risk Assessment Conferences (MARACs). The four aims of MARAC are:

To safeguard victims (and their children);

Make links with other public protection arrangements in relation to children, perpetrators and vulnerable adults;

Safeguard agency staff; and

Address the behaviour of the perpetrator.

They are designed to ensure that individuals at greatest risk from domestic abuse are supported through safe, relevant, and proportionate information sharing, and the development of an effective multi-agency action plan to increase their safety. We believe that the current bodies involved in the MARAC process should continue to consider domestic abuse cases and if a register is created then these same agencies should have access to that information. The MARAC process is not a statutory requirement for the agencies involved. If the Bill is introduced, then consideration should be given to placing these arrangements on a statutory footing like the MAPPAs process under the Management of Offenders etc (Scotland) Act 2005.

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

As we have indicated above, the MARAC arrangements are designed to assess the risk posed by domestic abusers. The Scottish Government carried out a consultation in 2018 of the MARAC process called Improving Multi-Agency Risk Assessment and interventions for victims of domestic abuse.⁶ In the response to this consultation there were several overarching themes which emerged within the responses across questions⁷. These included:

a need for improved funding and resourcing

a balance to be struck between implementing national standards, processes, and resources to ensure consistency, and allowing enough autonomy at local level for these to be adapted to the local context

values, approaches, or ideologies that should underpin this work, such as:

a gender-based understanding of domestic abuse

domestic abuse as caused by the perpetrator, not the victim

intersectionality

victim-centred approach

trauma-informed approach

risk-based approach

centrality of lived experience.

Whilst it does appear from the consultation analysis that the MARAC process has issues that require to be improved, there does not appear to be a call to replace this process.

e) When a public body such as the Police should share this information with others such as a new partner?

The power to tell already exists under the current Disclosure Scheme for Domestic Abuse Scotland.⁸ It would be a matter for the police, or criminal justice social work to risk assess whether a partner needs to be told about the offending history of a domestic abuse offender. We do not believe that a domestic abuse register would contain any additional information that the police would not already hold. trained professionals. A register may well require a domestic abuser to tell the police about any new partners they have entered into a relationship with. This may be of assistance to the police in making these types of decisions.

f) In what circumstances should a new partner or certain other individuals have the right to receive details of the convictions and other relevant information about an individual on the register?

VSS believes that the current Disclosure Scheme as administered by Police Scotland has the necessary provisions for partners or relevant persons to receive details about the history of an individual.

Rehabilitation Measures

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

Partially 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.

VSS highlights the significant concerns that have been expressed by a group of violence against women (VAW) organisations and professional individuals working in Scotland regarding the use of Restorative Justice (RJ) in domestic abuse and sexual offence cases¹⁰. VSS would want those concerns fully addressed before considering RJ for these types of cases.

VSS believes that any RJ process should be victim-centred and victim-led, and any process should be trauma-informed and not be mandated by a court or other statutory process. We have heard from other European countries where RJ is more established that victims feel pressurised into taking part in RJ because the approach to them is made by official-type people and they feel obliged to take part.

With regards to the other mandatory rehabilitation measures identified in the consultation document, we believe that the Caledonian System should be more widely available than it currently is. We have not seen any evidence that suggests that mandatory rehabilitation programmes work effectively. We have however seen evidence that where perpetrators participate willingly in programmes such as the Caledonian System then this reduces offending over a period of time.

We have received feedback from a victim of crime supporting mandatory rehabilitation schemes:

'There has to be a Domestic Violence Charter to protect victims from onset until after court case has finished. Men who don't get a jail sentence should have to attend a mandatory group about rehabilitation, anger management and so on. They need to start rehab work in jail for those that get jail terms.' (Person affected by domestic abuse by their partner at the time)

The consultation document asks for comments in the following areas:

What the rehabilitation measures could consist of?

VSS defers comment on this aspect to other Third Sector organisations who deal with perpetrators of crime and what measures have been deemed as being the most effective at rehabilitation of perpetrators of domestic violence. We have however highlighted the Caledonian System as an example of good practice.

Who could be required to complete rehabilitation measures (including whether these measures could be used as a means of early intervention in some circumstances)?

VSS believes that whatever measure is used there needs to be equitable access across the country. Currently, as identified in the consultation document, the provision of the Caledonian System does not cover every local authority area and is therefore not available as a disposal option in every court. There needs to be consistency in the disposal option open to the courts and the courts need to be given the

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

reassurance that these rehabilitation measures work and that the individual they are sentencing is an appropriate candidate for such rehabilitation. This would require a detailed report from criminal justice social work.

The mechanism for these measures to be allocated? Exemptions where individuals could be considered ineligible?

VSS refers you to our answer above.

The extent to which this could be an alternative to a custodial sentence?

In relation to sentencing, that is for a court to decide, taking account of sentencing guidelines created by the Sentencing Council. We are encouraged that the Sentencing Council is now consulting on each of the guidelines, and we would hope that the guidelines relating to domestic abuse would appropriately reflect the seriousness of the offences and act as a deterrent to perpetrators.

When the measures should be completed by someone completing a custodial sentence? How these measures should be delivered in practice?

VSS believes that the answers to these questions are for organisations who deal with perpetrators of crime.

Whether the offender should pay for these measures themselves?

VSS have no comment to make on this question.

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?

Partially supportive

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.

In general Victim Support Scotland welcomes any measure that would increase access to justice for victims of crime. We know that there are many hidden victims who find difficulty accessing services for a variety of reasons. The consultation has asked the following specific questions under this section.

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?

Whether annual reporting would provide a regular enough, or too frequent, an update on incidences of domestic abuse, access to domestic abuse services, and improvements to access?

VSS has no issues with reporting annually on what measures have been taken to increase access to justice for victims of crime.

What information the report should specifically include?

We believe that some careful consideration should be given to the collection of personal data on victims of crime. We believe that any information collated on victims of crime should be anonymised and not contain any personal information or information that could be reasonably expected to identify them.

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.

VSS would be supportive of Education on domestic abuse being delivered in schools. We believe that any training package should have input from domestic abuse services to ensure it accurately captures the nature of domestic abuse. We would not comment on whether the training should be a mandatory part of the curriculum, but the training material should be the same wherever it is delivered.

We have received feedback from a victim of crime supporting education in schools:

'I want to spread the message to others about awareness of domestic abuse, to get more folk to open up about it... We need to educate children, go into schools, and tell them what domestic abuse is.' (Young person affected by domestic abuse by their partner at the time)

The amount of teaching time required? The content of education on domestic abuse?

We would defer the above questions to those service whose primary function is to deliver domestic abuse support in conjunction with the Education Department.

Who should deliver education on domestic abuse (schools themselves or external experts)?

This would be a matter for Education, but whoever delivers the training should be trauma-informed and

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

have sufficient knowledge and experience to deliver the training

Which schools should deliver education on domestic abuse (e.g., local authority run schools or independent schools etc)?

Domestic abuse affects all communities and therefore it is immaterial who runs the schools they should equally have access to this type of educational material.

What is the most appropriate age range for young people to begin receiving education on domestic abuse?

We believe that there may be various levels of education which may be age-related. We would defer this question to educational experts working in conjunction with domestic abuse services.

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.

VSS agrees with the consultation document that there would be an increased cost to the police in terms of monitoring the offenders placed on the register. This cost would not be reserved to the maintenance of the register, however. The main cost implication would be the number of officers that would be required to monitor individuals on the register. Using the figures provided in the consultation document the number of officers required to monitor the Domestic Abuse Register would vastly outnumber the number of officers currently within the Offender Management Units monitoring sexual offenders.

Our concerns are that police resources would be diverted to this area of policing to the detriment of victims of other crime types. We would argue that for this register to work without other victims of crime having a reduced service then there would have to be a significant uplift in the police budget to properly resource the register and associated monitoring requirements.

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.

There would potentially be positive equality impacts for women and girls who are predominately the victims of domestic abuse. There would also be better access to justice for seldom heard groups with communities.

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?

No Response

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)?

No Response