

Submission to the Scottish Government: Consultation Paper on Electoral Reform - Anonymous Voter Registration

**Response from Scottish Women's Aid
March 2018**

ABOUT

Scottish Women's Aid (SWA) is the lead organisation in Scotland working towards the prevention of domestic abuse and plays a vital role in campaigning and lobbying for effective responses to domestic abuse. SWA is the umbrella organisation for 36 local Women's Aid organisations across Scotland; they provide practical and emotional support to women, children and young people who experience domestic abuse. The services offered by our members include crisis intervention, advocacy, counselling, outreach and follow-on support and temporary refuge accommodation.

COMMENTARY

We have replied only to Question 20 on the subject of Anonymous Voter Registration and the questions set out in the associated Detailed Policy Paper, as below.

QUESTION 1: Do you have any suggestions for other situations where anonymous electoral registration might be required in order to protect individuals from the risk of physical or mental abuse?

QUESTION 2: Do you have any views on the appropriate levels of evidence which should be required to support applications for anonymous electoral registration?

In terms of the Scottish Government's request for feedback on other situations where AVR might be required, we would support expanding the scheme to the suggested scenarios of stalking and human trafficking, along with "...situations involving child abuse (where the safety of the child might be at risk if the name and address of their parent/guardian was publicly available..)", threatening behaviour, those at risk of forced marriage and honour-based violence and others who simply may wish to register to vote safely without their partner, spouse, family and/or parents knowing that they are registered and exercising their legal right to vote.

The Westminster Cabinet Office's policy statement of March 2017 "***A democracy that works for everyone: survivors of domestic abuse***"¹ also suggested including a number of additional evidential sources, in particular "...evidence that someone has been granted indefinite leave to remain in the UK as a victim of domestic violence, relevant unspent court convictions for a domestic abuse-related offence and criminal proceedings or evidence of bail for a domestic abuse-related offence..."

Although Westminster is not proposing to introduce these additional evidential sources, we, nonetheless, continue to support them as acceptable sources of evidence for AVR applications that that the Scottish Government could introduce. To these, we would add additional, specifically Scottish criminal proceedings, namely evidence of liberation on undertaking for a domestic –abuse related offence granted by Police Scotland under the Criminal Justice (Scotland) Act 2016 and offences attracting the sentence aggravator applied under the Abusive Behaviour and Sexual Harm (Scotland) Act 2016. Police Scotland and the COPFS should also be consulted on additional relevant orders and proceedings that could apply.

We note that further changes are likely to be brought forward as the Domestic Abuse (Scotland) Act 2018 is implemented and this would include convictions, proceedings and the use of the "child aggravator" under this legislation.

QUESTION 3: Do you think that certain health professionals, such as GPs, community nurses etc., should be able to attest an application for anonymous registration?

AND

QUESTION 4: What categories of health professionals do you think should be allowed to attest an application?

We note that both Westminster and the Scottish Government have already laid Statutory Instruments with changes to the anonymous electoral registration scheme, Westminster's commencing on 7th March and the mirroring Scottish Statutory Instrument ("SSI") commencing 1 April 2018.²

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/596185/Anonymous_Registration_Policy_Statement.pdf
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/641820/A_Democracy_that_works_for_everyone_-_survivors_of_domestic_abuse_Response_to_policy_statement_September_2017..pdf

² **The Representation of the People (Scotland) Amendment Regulations 2018 ; The Representation of the People (England and Wales) (Amendment) Regulations 2018**

In addition to adding further protective orders, these lowered the seniority required from police officers in England, Scotland and Wales to allow attestation to be provided by a police officer of the rank of Inspector or above and also added registered medical practitioners, registered nurses and midwives to the list of attestors. This is positive since, as the consultation notes, it will “...*significantly increase the number of potential police attestors and would include those to whom victims of abuse are more likely to have access.*”

The only concern is that a fee may be charged by GP practices, or other health professionals, for providing this attesting service, in respect of both an application for the initial 12-month period and then for any attestation to support a renewal. This could create a financial barrier against women obtaining AVR attestation from a health professional if they are otherwise unable to access an alternative attestor who does not charge a fee. We note that this was also raised as a concern by the Local Government and Communities Committee when they considered the SSI on 7th February 2018.³

The consultation paper also states that the Scottish Government will also “...*work with the Electoral Commission to improve guidance for social workers who may be able to help individuals access the scheme...*” and we would support this in order to facilitate a lowering of the requirement that Social Work attestors must be at the grade of Chief Social Worker.

QUESTION 5: Do you have any views on whether managers of domestic abuse specialist services should be able to attest an application for anonymous registration?

QUESTION 6: If managers of domestic abuse specialist services were to be allowed to attest applications, do you think that this should only be allowed where there is a direct connection between the applicant and the service?

QUESTION 7: Do you have any suggestions on how domestic abuse services should be defined in order to capture all appropriate organisations?

The Statutory Instruments mentioned above also include “...*a person who manages a refuge in the list of those who can provide evidence by way of attestation...*” and define such a person as “...*In this regulation “refuge” means accommodation together with a planned programme of therapeutic and practical support for victims of, or those at risk of, domestic abuse or violence...*”

It would be helpful to have clarity on the definition of “*refuge manager*”, as to whether this means an employee of the organisation with the responsibility for managing the refuge service or the individual who has overall control of the organisation. “*Manager*” will also have

³ <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=11364&mode=pdf>

to take account of those groups who are collectives and where all workers have management responsibility jointly.

We are aware that there is at least one of our affiliated Women's Aid groups which does not operate their own dedicated refuge housing space because it is neither appropriate nor safe to support women and children's housing needs in that particular rural, geographical area, but they, of course, work with the local authority and housing associations to facilitate this. This local Women's Aid group and other appropriate advocacy organisations, including Rape Crisis Scotland Centres, who offer services to women who have experienced violence and abuse, albeit they do not provide temporary housing accommodation themselves, could legitimately attest applications from their service users and we would ask the Scottish Government, and also Westminster, to close this gap.

In terms of direct connection, in addition to applicants using a specific service, a "*refuge manager*" in one area should also be able to attest, if needed, on behalf of a woman and/or young person moving to their area who has otherwise been supported by, or in contact with, one of our other affiliated Women's Aid groups in another part of the Scottish Women's Aid network.

QUESTION 8: Do you have any views on other individuals/organisations, such as children's panels or National Referral Mechanism First Responders, which might be able to attest an application for anonymous registration in certain circumstances?

We would support First Responders, under the National Referral Mechanism (system to identify victims of human trafficking) being able to attest an applications.

QUESTION 9: Do you think that the list of current court orders and interdicts/injunctions, which can be used to support an application for anonymous registration, should be expanded? If so, what further court orders should be included and why?

QUESTION 10: Are there any other forms of documentary evidence which you think should be allowed to be used to support an application for anonymous registration?

We note that domestic violence protection orders and Female Genital Mutilation Protection Orders, made under English law, will be added to the list under the new Statutory Instruments and that Forced Marriage Protection Orders, under both the Scottish and English legislation, have previously already been added.

In terms of additional supporting documentary evidence, we would suggest that Exclusion Orders under section 4 of the Matrimonial Homes legislation, section 76 of the Children (Scotland) Act 1995 and section 14 of the Family Law (Scotland) Act 1985 could be added as evidence of need due to domestic abuse. Also, where courts are willing to grant common law interdicts that are clearly intended to protect women and children against abusive partners, but may be otherwise reluctant to attach a power of arrest, the fact that there is a court interdict in force should be sufficient on its own as evidence of need without having to be accompanied by a power of arrest. Experience built up by Electoral Registration Officers and examples provided to them will allow them to be clear as to the protective terms of a qualifying interdict.

There may also be situations where a much-needed interdict has expired and the woman cannot afford to apply for it to be renewed, or the court is unwilling to grant a renewal because this does not appear necessary since there was no further abuse perpetrated during the term of the interdict, despite the fact that there has been no further abuse solely due to the existence of interdict over that period. The woman's safety may be still compromised, regardless, therefore orders that have recently expired should be acceptable as evidence.

QUESTION 11: Do you have any suggestions on how the current requirement for annual renewal of an anonymous entry in the electoral register might be improved?

QUESTION 12: Do you have any other comments or suggestions about the anonymous registration rules or process?

We would ask the Scottish Government to consider this in the context of the length of a protective order. While supporting a minimum term of 12 months, it would seem sensible, where a protective order has been granted for a longer period, that the AVR period reflects this and is made for the same length of time, in 12-month periods. Therefore, a non-harassment order made for three years would allow AVR registration for three years and an interdict made for 18 months would be made for an AVR period of two years.