

Justice Committee call for written views on its post-legislative scrutiny of the Police and Fire Reform (Scotland) Act 2012

Response from Scottish Women's Aid

April 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.

We are 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.

Background

SWA welcomes the opportunity to comment on the important issues raised in this consultation and we have set out our observations below.

Commentary

The Police and Fire Reform (Scotland) Act 2012 requires the police to work in partnership with others to ensure the services are accessible to and engaged with local communities; promote measures to prevent crime, harm and disorder, and improve the safety and well-being of persons.

The Scottish Government's three main policy intentions in promoting the 2012 Act were:

- To protect and improve local services despite financial cuts, by stopping duplication of support services eight times over and not cutting front line services;

- To create more equal access to specialist support and national capacity - like murder investigation teams, firearms teams or flood rescue - where and when they are needed; and
- To strengthen the connection between services and communities, involving many more local councillors and better integrating with community planning partnerships.

We note that the Committee is to consider the whole of the 2012 Act, including the oversight and scrutiny bodies detailed within it, how the legislation is being enacted, if there are any unintended consequences, and whether any improvements are needed.

Background

In our response to the Justice Committee's call for evidence during what was Stage One of the Police and Fire Reform (Scotland) Bill in 2011, we noted that "*The establishment of a Single Scottish Police Force ("SSPF") will substantially impact upon the way police services are delivered in Scotland, and, our interest is how the police response to women, children and young people experiencing domestic abuse will be maintained and improved across the new Single Force.*"

We went on to list our most important outcomes arising from the establishment of a SSPF:

- Existing local initiatives, joint working, and protocols in place among local Women's Aid groups, Violence against Women Multi-Agency Partnerships and police forces must be re-shaped appropriately to formalise and encourage collaboration, liaison and regular contact.
- Consistent, Scotland-wide, standard policies, procedures and guidance in handling, tagging and responding to domestic abuse, should be in place for all police officers, from the local response of officers on the beat through to the strategic response from higher ranks, to ensure continuity. In particular, we asked that the document "*In Partnership, Challenging Domestic Abuse*" a Joint Protocol between COPFS and ACPO(S) outlining procedures and practices that will be followed by the Scottish Police Service and the Crown Office and Procurator Fiscal Service in relation to the investigation and prosecution of domestic abuse in Scotland, should be given a more formal status that would ensure consistent practice.
- Nationally, a planned programme of general awareness- raising on the causes, effects, dynamics, and legal responses to domestic abuse should be available to all officers, along with Continual Professional Development "refresher" training for civilian staff and all police, similar to that instigated by the Metropolitan police who put in place training for 33,000 uniformed officers

and support staff.

Responses to domestic abuse varied, not just among the eight regional forces but within these forces themselves; a postcode lottery was very much the picture for women and children experiencing domestic abuse. This was especially obvious in responses to incidents, recording of crimes and reporting to the COPFS. While in some forces, the police would respond by detaining and questioning abusers, arresting and charging where appropriate, there was a culture elsewhere where police would “no crime” even serious incidents, sending out warning letters or “having a word” with the perpetrator, despite the Joint Protocol giving clear instructions to the contrary.

Commentary on the Act and creation of Police Scotland

Five years on, Police Scotland's response to reported domestic abuse has improved, dramatically in some places. The creation of the single force has produced a better-informed, targeted and more consistent approach to the investigation of domestic abuse. Police practice is governed by a national set of policies, procedures and guidance, a welcome change.

However, while important progress has been made, concerns remain. Evidence from our network of 36 services and our work with other stakeholders indicates that policing practice still varies significantly. We see a substantial disparity between high-level progressive policy approaches and delivery of these strategies in practice at divisional level and by individual officers.

Our local Women's Aid groups across Scotland report differing experiences in women's engagement with the police, and our Domestic Abuse and Forced Marriage Helpline reports continuing instances of poor practice in an analysis carried out over 2016/17, despite an overall finding that most attending officers have a good understanding of women's experiences and provide a sensitive and appropriate response. Scepticism has been voiced, sometimes to women themselves, about the efficacy of targeting domestic abuse over what is considering “more deserving” criminal activity.

Workers in our local Women's Aid network advise that although the understanding of domestic abuse may have improved, the police response is still incident-focused and rarely framed and understood as an ongoing pattern of abusive behaviour by the perpetrator.

The Joint Protocol is now on a much stronger footing as an instruction from the Lord Advocate to the police on their investigation and evidence-gathering practices. We are disturbed, however, by the persistent upward trend (13% in 2007-8, 18% in 2016-17) of arrests and charges of women for domestic abuse crimes against male

victims. We suspect the number of dual arrests (of both the woman and the man at an incident) has dropped, perhaps as a result of the Lord Advocate's instructions. We also suspect that the continuing high numbers of women arrested (an anomaly) reflects a need for first responders to better understand and adopt a gendered approach to domestic abuse. Addressing this will be particularly important in the implementation of the new Domestic Abuse (Scotland) Act 2018.

There are a number of issues we wish to highlight:

Need for better connection and liaison around local policing and decision-making, to identify local and national good and bad practice around response and policy.

- Groups have commented on the loss of “local knowledge and connections” and the need to have access to specialist officers. A lack of input from local Women’s Aid groups to local police officers’ training and awareness and thus a diminishing of the local expertise, along with the loss of the Domestic Abuse Liaison Officer role, has been identified as detrimental, particularly around responses to forced marriage and honour-based violence. We see a need for greater consultation and involvement of local Women’s Aid services with Police Scotland at a local level, particularly around Police Scotland’s role as a statutory Community Justice Partner, with effective engagement around community justice and the police role in community disposals and offender management around domestic abuse.
- We note that Police Scotland has been included in the statutory category of Relevant Third Parties empowered to apply directly to the courts for a Forced Marriage Protection Order. This is a positive development since Police Scotland’s proactive role in responding to forced marriage has been particularly supportive.
- A further dimension of “local policing” is ensuring that resources are deployed to facilitate swift responses and protection of women, children and young people experiencing domestic abuse. A different response is needed between urban and rural policing, where the nearest police officers may be a considerable distance away, which has implications for protection of crime victims, apprehension of perpetrators and efficient and timely investigation and follow up procedures. Similarly, maintaining access to local officers, both in person at a police station and via the phone is important in terms of increasing confidence in the police and in encouraging reporting of domestic abuse.

Service user feedback and involvement

- A specific commitment to gathering and responding to local service user feedback is needed. This is particularly important to improve how police respond and listen to children and young people in relation to domestic and sexual abuse.
- Regular consultation with local Women's Aid partners and their service users should be undertaken by Police Scotland at a local level to identify good and bad practice and promote positive responses and initiatives across Police Scotland as a whole. This is particularly important in establishing priorities for Local Police Plans and in consulting on the content of these before they are finalised.
- A post-roll out evaluation of the Disclosure Scheme for Domestic Abuse Scotland ("DSDAS"), the Scottish version of what is referred to in England and "Clare's Law", is urgently needed. Prior to the 2015 roll-out of the Scheme, researchers commissioned to work on an evaluation of the pilots and future outcomes post roll-out recommended that an evaluation be done over three separate phases. Phase 1 would be the process evaluation of early implementation; funding was secured for this, it was carried out but access restricted to the then Strategic Reference Board. A further two phases, both of which would be funding dependent were Phase 2: Users' [Right to Ask applicants] Perspectives and Phase 3: Longer Term [Right to Ask applicants] Perspectives on Outcomes. Neither of these important evaluations has, to date, been carried out, so the outcome of these disclosures and the impact on the safety and autonomy of women and children continues to be unknown, despite the Scheme being in place for three years across Scotland.

Partnership working

- SWA continue to work closely with Police Scotland, and we value highly the relationship. However, timely collaboration and engagement, especially with local Women's Aid groups locally remains patchy. Social media and other campaigns are often planned and carried out with little or no consultation with those who are the first line of support in the communities.
- Ensuring engagement of SWA and local Women's Aid groups as stakeholders in development of police policy, guidance and operational procedures and in the monitoring of progress against all objectives on a national, strategic level and in relation to local policing plans would be most welcome.

Police Scotland response

- Appropriate use and understanding of, the role and limitations of paper risk assessment should be integrated and incorporated in training for all front-line

officers responding to domestic abuse, specialist investigation officers and those investigating and taking decisions around release of suspected perpetrators on investigative liberation and accused under liberation on undertaking.

- Incorporation of principles of the “Safe and Together” model as the basis for a more effective and safer Police Scotland response to domestic abuse where there are children involved, in particular as a way of improving risk assessments. This approach focusses in keeping the child safe and together with non-offending parent, partnering with non-offending parent as default position and intervening with perpetrator to reduce risk and harm to child, underpinned by an understanding of perpetrators of domestic abuse as abusive parents as well as abusive partners.
- Ensuring that at both a local and national level, Police Scotland has an appropriate understanding of their statutory obligations under the Victims and Witnesses (Scotland) Act 2014 (as amended), are proactive in fulfilling their statutory obligations under the Act and actively promote, and respond to, victims’ rights under both the Standards of Service and the Victims’ Code. This is particularly relevant in meeting the obligation to provide an interviewing officer of the gender specified by the victim, in clearly advising women experiencing domestic abuse, stalking, human trafficking and/or sexual offending of their right as a “deemed vulnerable witness” to the automatic use of special measures and in appropriately highlighting vulnerability to the COPFS and VIA service.
- Training plays an important part in ensuring that first responders and specialist officers react appropriately and deliver a consistent response taking local factors (for instance geographical constraints in rural areas) into account. Training Needs Assessments around domestic abuse should be undertaken regularly to implement good practice, new initiatives, legislative requirements and to address gaps in response identified either at a local or national basis, particularly in relation to child contact and the impact of domestic abuse on children and young people.

We have also commented on Police Scotland’s Strategic Police Priorities and the 10 Year Strategy, *Policing 2026: Serving a Changing Scotland*“, ¹ in terms of that document’s impact on responses to domestic abuse and would be happy to discuss this further with the Committee.

Conclusion

In summary, local responses must more accurately reflect national procedures and this will be crucial in the heightened and nuanced response that will be required

¹ <http://www.scotland.police.uk/assets/pdf/138327/386688/policing-2026-strategy.pdf>

across Police Scotland once the Domestic Abuse (Scotland) Act 2018 comes into force. In terms of the commencement of the Act, it would be entirely appropriate, after allowing a period of time for the legislation to “bed in”, that HM Inspectorate of Constabulary in Scotland undertake a Thematic Inspection of the Police Scotland response to Domestic Abuse.

An up-to-date assessment of the single force’s response to domestic abuse is long overdue, given that the most recent Thematic Inspections were previously carried out in 2007 and then 2009, prior to the creation of the single force. These assessments inspected and identified overall themes requiring improvement in areas from the national strategic approach to domestic abuse down to local area and officer responses and, as such, provide a valuable snapshot of an important justice responses

As always, SWA, as an important stakeholder and partner of Police Scotland, looks forward to supporting Police Scotland deliver their best response possible to women, children and young people experiencing domestic abuse.