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☐ Organisation

Full name or organisation's name

Scottish Women's Aid

Phone number

0131 226 6606

Address

2nd Floor, 132 Rose Street, Edinburgh

Postcode

EH2 3JD

Email Address

Louise.iohnson@womensaid.scot

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LIST OF CONSULTATION QUESTIONS

Scottish Government would like your feedback on the National Strategy for Community Justice: Revision Consultation. The questions are focused on key aspects of the revised strategy included within the consultation document (section 7). Please read the consultation document before responding.

Introduction

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 34 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.

National Strategy for Community Justice - Aims

The draft national aims for the revised National Strategy for Community Justice are:

Aim 1: Optimise the use of diversion and intervention at the earliest opportunity

Aim 2: Ensure that robust and consistent community interventions and public protection arrangements are in place across Scotland

Aim 3: Ensure that services are available to address the needs of individuals accused or convicted of an offence

Aim 4: Strengthen leadership, engagement, and partnership working

Q1. Is the wording of the four national aims understandable?

☐ Yes

☒ No

If you answered no, please provide further explanation

Q2- Do you think the four national aims capture the most important aspects of community justice?

☐ Yes

☒ No

If you answered no, please provide further explanation

SWA welcomes the opportunity to comment on this important revision. Our first observation is that the four Aims and 14 Priority Actions do not sufficiently address the need to protect victims of crime. While the consultation paper notes that the revised strategy will recognise that "*public protection is paramount*", there needs to

be clearer integration of the rights of victims of crime throughout the revised strategy, including in the Aims and Priority Actions.

Community justice must mean justice for victims, offenders and wider society. It is therefore important for the revised Strategy to clearly articulate why and how this Strategy is intended to benefit victims of crime, in order to instill victim confidence and make the document relevant to victims of crime and not just a Strategy for offenders.

In order to do this, the document must set out how this will be achieved, including greater involvement with victims of crime and support agencies in the development, implementation, monitoring, evaluation and critique of all aspects of community justice responses including public protection, victim safety and effective risk assessment.

This is set out in the Scottish Government's Guidance for Local Partners in the New Model for Community Justice¹ and section 14 of the Act clearly states the commitment to involving victims and organisations supporting victims of crime² in community justice, as does the current Strategy, which explicitly states on page 9, *"Community is at the heart of the new model. Whether challenging stigma, employing people with convictions, or participating in community justice planning – improving community justice outcomes will require the involvement and support of local people and businesses. It is vital that this includes victims of crime, people who have committed offences, families, and the community bodies that represent them."*

This is important since the revised Strategy will inform the accompanying Delivery Plan driving implementation and therefore the direction and work of the Scottish Government, Community Justice Scotland and partners.

The strategy needs to be based on a comprehensive gender analysis, in line with Scottish Government commitments to gender mainstreaming in all policy areas. This means the revised Strategy should clearly reference the Scottish Government's Vision for Justice in Scotland and include the definition from the "Equally Safe" Strategy which defines gender-based abuse as **"Behaviour that stems from systemic, deep-rooted women's inequality"**.³

A gender-based approach particularly extends to ensuring that any "trauma-based" approaches are mindful of, and equally inclusive of, the need to ensure that community-based approaches, interventions and initiatives take cognisance of the safety and rights and needs of victims of gender-based violence, particularly women, children and young people experiencing domestic abuse, and are designed, implemented, monitored and evaluated subject to the definition above.

We note that the current version of the National Strategy, particularly the principles underpinning the Scottish Government's vision of community justice as set out on page 47, include some important points relating to victims of crime and it would be beneficial for the Aims and Priority Actions for the revised strategy to include similar language. For example:

¹ <https://www.gov.scot/publications/guidance-local-partners-new-model-community-justice/documents/>

² <https://www.legislation.gov.uk/asp/2016/10/section/14>

³ <https://www.gov.scot/binaries/content/documents/govscot/publications/strategy-plan/2018/04/equally-safe-scotlands-strategy-prevent-eradicate-violence-against-women-girls/documents/00534791-pdf/00534791-pdf/govscot%3Adocument/00534791.pdf?forceDownload=true>

- *People must be held to account for their offences, in a way that recognises the impact on victims of crime and is mindful of risks to the public, while being proportionate and effective in preventing and reducing further offending.*
- *High quality, person-centred and collaborative services should be available to address the needs of those who have committed offences, their families, and victims of crime.*

Q3- what extent do you agree/disagree with the national aims for the revised National Strategy for Community Justice?

National Aims	Strongly disagree	Disagree	Neutral	Agree	Strongly agree
Aim 1: Optimise the use of diversion and intervention at the earliest opportunity	☐	☐	X	☐	☐
Aim 2: Ensure that robust and consistent community interventions and public protection arrangements are in place across Scotland	☐	☐	X ☐	☐	☐
Aim 3: Ensure that services are available to address the needs of individuals accused or convicted of an offence	☐	☐	☐ X	☐	☐
Aim 4: Strengthen leadership, engagement, and partnership working	☐	☐	X ☐	☐	☐

Do you have any further comments on the National Aims?

In principle, we agree with the above Aims, subject to the following caveats and amendments

AIM 1-

- It is not clear what “*earliest opportunity*” means. - this can only be the earliest appropriate, safe opportunity and should not divert from prosecution, which may not be the best outcome for the victims.
- We would also note that, in referencing the “*underlying needs and causes of offending behaviour*” referred to in the explanatory text accompanying Aim 1 and “*opportunities*” to “*address this*”, the revised Strategy must make reference to, and demonstrate a clear understanding, that the drivers for gender-based offending, particularly domestic abuse, and underlying “causes” are completely different from those relating to mainstream offending. This should therefore state that desistance models, community justice responses, trauma-based approaches in relation to gender-based offending, particularly domestic abuse, must be accordingly suitable, appropriately informed and nuanced.

AIM 2

- SWA agrees that any community justice response should be robust and consistent. This is important for victims of crime as it clearly conveys the message that the community interventions will not be a “soft option” and that responses for non-compliance or breach will be prompt and rigorous.
- We agree that irrespective of geography, victims of crime should be confident that consistent standards of training, awareness, offender management, risk assessment, public protection, safety consideration and responses will be applied across Scotland, particularly where perpetrators of domestic abuse are subject to, or being assessed as suitable for, community interventions and undergoing assessments to determine safety measures/supervision/management to be taken on release, etc.

AIM 3- this focusses very much only on offenders and needs a more inclusive approach toward victims. For instance, the current Strategy states the following that should be replicated in the Aims and Actions:

- **Page 9-** *Community is at the heart of the new model. Whether challenging stigma, employing people with convictions, or participating in community justice planning – improving community justice outcomes will require the involvement and support of local people and businesses. It is vital that this includes victims of crime, people who have committed offences, families, and the community bodies that represent them.*
- **Page 12-** *Although each area will have their own definition of “community” including a range of different interests and geographical areas, the following groups must be included: ...Victims of crime and their families...*

In particular, the existing Strategy notes the following which should be replicated in Aim 3

- **Page 22-** *Victims of crime and families can also face a number of barriers to accessing services including stigma, a lack of information about services, transport challenges and a lack of available services. In some instances, these groups may be ineligible to access particular services due to restrictive criteria such as geographical boundaries or level of crisis*
- **Page 25-** *It is also important that victims of crime have access to the specialist health services they require.*
- **Page 26-** *To improve financial inclusion, community justice partners should work together to: Improve access to financial and welfare advice services for people who have committed offences, families and victims of crime.*

National Strategy for Community Justice - Priority Actions

In February 2022, the Scottish Government published consultation feedback on the review of the current National Strategy for Community Justice. Informed by the responses to this review and other evidence and engagement, priority actions have been developed under each of the national aims. The priority actions should support the national aims.

Q4-To what extent do you agree/disagree that these community justice priority actions will contribute to the achievement of national Aim 1 (Optimise the use of diversion and intervention at the earliest opportunity)?

Priority actions for Aim 1	Strongly disagree	Disagree	Neutral	Agree	Strongly agree
1. Enhance early intervention by ensuring greater consistency, confidence in and awareness of services which support the use of direct measures and diversion from prosecution	X ☐	☐	☐	☐	☐
2. Improve support for vulnerable individuals by ensuring the provision of consistent, equitable and accessible immediate support in a crisis and screening within Police Custody Centres	☐	☐	X	☐	☐
3. Improve support following arrest by ensuring substance use and mental health services are available and appropriate referrals take place at the earliest opportunity	☐	☐	X ☐	☐	☐

Q5- Do you have any further comments or suggested changes on how these priority actions will contribute to achieving Aim 1 (Optimise the use of diversion and intervention at the earliest opportunity)?

Priority Action 1

It is important that the safety of victims is factored into the decision making on what types of services are appropriate.

- This Priority Action should be reworded with the text in bold “*Enhance early intervention by ensuring greater consistency, confidence in and awareness of services which support the **appropriate, safe and risk assessed** use of direct measures and diversion from prosecution*”
- The current Strategy has wording which would help with getting the balance right in Aim 1 and the associated Priority Actions:
 - **Page 30-** *In order to maintain confidence and protect the interests of people who have been victims of crime, it is important that the interventions available reflect the appropriate level of risk and the nature and severity of the offence, and should be robustly and consistently applied and delivered. Alternatives to prison will not be appropriate for some people.*
 - **Page 32-** *Maximise opportunities for the use of diversion. This will require a balance of appropriate decision-making by the Procurator Fiscal and provision of suitable services by criminal justice social work and the third sector.*
- It is not clear what “early intervention” means and when this will happen. Our concern would be if it led to inappropriate, unsafe and unregulated perpetrator programmes, including those which are voluntary/non-court mandated, being introduced. “Early intervention” by way of diversion from prosecution should not happen in relation to domestic abuse related offending in line with the COPFS position on not using diversion in such cases.

- See our comments above on the National Aims for text on victims' access to services which should be included here.

Q6-To what extent do you agree/disagree that these community justice priority actions will contribute to the achievement of national Aim 2 (Ensure that robust and consistent community interventions and public protection arrangements are in place across Scotland)?

Priority actions for Aim 2	Strongly disagree	Disagree	Neutral	Agree	Strongly agree
4. Support the use of credible and robust alternatives to remand by ensuring high quality services are consistently available and delivered effectively	☐	☐	☐	x	☐
5. Strengthen supported management in the community by increasing and widening the use of electronic monitoring and technologies	☐	☐	x	☐	☐
6. Ensure that those given community sentences are managed appropriately and safely by delivering high quality, consistently available, trauma-informed services and programmes that support public protection	☐	☐	x	☐	☐
7. Ensure restorative justice is available across Scotland to all those who wish to access it by ensuring consistent provision and effective promotion of available services	☐	☐	x	☐	☐

Q7- Do you have any further comments or suggested changes on how these priority actions will contribute to achieving Aim 2 (Ensure that robust and consistent community interventions and public protection arrangements are in place across Scotland)

Page 12 of the consultation paper refers to remand of offenders only when they pose a risk of “serious harm”. We have concerns about how this may be interpreted for domestic abuse. While the courts make the ultimate decision on whether someone will be released or remanded, it is important that community justice actors who are involved in gathering evidence on and assessing the risk that an accused potentially poses to victims have a good understanding of domestic abuse. Too frequently “serious harm” is interpreted as physical harm and ignores the existence of coercive control and the role this plays in gender-based offending. The priority action for “high quality” services to be “delivered effectively” will only be met if those implementing the services conduct effective and appropriate risk assessments, have a robust understanding of the causes, dynamics and impact of domestic abuse, particularly

coercive control, and are able to accurately identify warning signs of further abuse in order to safeguard the rights of victims.

A trauma- informed approach has to focus on victims and not just offenders. This is particularly important in relation to gender- based offending and domestic abuse.

- **Priority Action 4-** There is much reference to “person-centered” approaches but it is not clear who this is referring to- victims or offenders? The text should be explicit that this covers both and will focus on ensuring those delivering bail services are adequately and appropriately trained, including around safety and risk assessment and that these will be robustly monitored and enforced, particularly in relation to breaches.

Priority Action 5-

- Any references to information sharing that involve the information relating to victims of crime must be further explored and this requires engagement with victims and victim support organisations in relation to service-generated risk and inappropriate sharing.
- The explanatory text must emphasise the importance of engagement with both victims themselves and third sector victim support organisations, particularly those from the VAWG sector.
- This also refers to gathering evidence on uses of EM from a user perspective while, arguably, the more important evidence to be gathered is that from communities and specific victims, especially in relation to the use of EM for domestic-abuse related offending; the text must be amended to reflect the need to collect data from victims and support organisations

Priority Action 6

- We note that the explanatory text on page 12 states “*Restorative justice, which, in the majority of cases, must be led by those who have been harmed...*” Apparently, this is to accommodate the use of restorative justice in “low-level” community based/ASB related offending. In order for there to be no confusion or misinterpretation that this allows perpetrators of gender-based violence and abuse to seek out restorative approaches, the text should be clarified since an offender seeking restorative justice when the victim has not asked for it may in itself be an attempt to continue the abuse. This position should not only be threaded throughout the text relating to this Action but the entire revised Strategy document itself, particularly in relation to risk assessment and victim safety.
- The explanatory text states- “*Effective interventions require proactive involvement across community justice partners, third sector and wider communities.*” As noted above in relation to Priority Action 5, this Action must also emphasise the importance of engagement with victims themselves and third sector victim support organisations, particularly those from the VAWG sector
- Again, see our comments above on the National Aims for text on victims’ access to services which should be included here.

In support of our comments, we suggest the following edits to the Priorities, adding the text in bold:-

- **Priority Action 4-** “Support the use of credible and robust alternatives to remand by ensuring high quality, **risk assessed services, mindful of public safety**, are consistently available and delivered effectively”

- **Priority Action 5.** “Strengthen **safe and** supported management in the community by increasing and widening the **appropriate** use of electronic monitoring and technologies”
- **Priority Action 6.** “Ensure that those given community sentences are managed appropriately, **rigorously and** safely by delivering high quality, consistently available, trauma-informed services and programmes that support public protection”
- **Priority Action 7.** “Ensure restorative justice is available across Scotland to all those who wish to access it by ensuring consistent, **risk assessed, safe, victim-centred** provision and **appropriate** effective promotion of available services”

Q8- To what extent do you agree/disagree that these community justice priority actions will contribute to the achievement of national Aim 3 (Ensure that services are available to address the needs of individuals accused or convicted of an offence)?

Priority actions for Aim 3	Strongly disagree	Disagree	Neutral	Agree	Strongly agree
8. Enhance individuals' access to health and social care and continuity of care following release from prison by improving the sharing of information between relevant partners	☐	☐	☒	☐	☐
9. Ensure that the housing needs of individuals in prison are addressed consistently and at an early stage by fully implementing and embedding the SHORE standards across all local authority areas	☐	☐	☒	☐	☐
10. Enhance individual's readiness for employment by ensuring increased access to employability support through effective education, learning, training, careers services and relevant benefit services	☐	☐	☒	☐	☐
11. Enhance community integration and support by increasing and promoting greater consistency in the use of voluntary throughcare and third sector services	☐	☐	☐	☒	☐

Q9- Do you have any further comments or suggested changes on how these priority actions will contribute to achieving Aim 3 (Ensure that services are

available to address the needs of individuals accused or convicted of an offence

Firstly, we would refer you to our comments above on the National Aims for text on victims' access to services which should be included here

Priority Action 8-

- Again, any references to information sharing that involve the information relating to victims of crime must be further explored and requires engagement with victims and victim support organisations in relation to service-generated risk and inappropriate sharing.
- Explanatory text needs to reflect our comments above on “trauma-based approaches” and “person-centered approaches”

Priority Action 10- explanatory text needs to reflect our comments above on “trauma-based approaches” and “person-centered approaches”

Priority Action 11

- In relation to partnership working, should refer to the importance of engaging with communities and victims, and third sector victim support organisations, particularly those from the VAWG sector.

Q 10- To what extent do you agree/disagree that these community justice priority actions will contribute to the achievement of national Aim 4 (Strengthen leadership, engagement, and partnership working)?

Priority actions for Aim 4	Strongly disagree	Disagree	Neutral	Agree	Strongly agree
12. Deliver improved community justice outcomes by ensuring that effective leadership arrangements are in place and working well, collaborating with partners and planning strategically	☐		☐	☐	X
13. Enhance partnership planning and implementation by ensuring the voices of victims, survivors, those with lived experience and their families are effectively incorporated	☐	☐	☐	☐	X ☐
14. Support integration and reduce stigma by ensuring the local community and workforce have an improved understanding of and confidence in community justice	☐		X	☐	☐

Q11- Do you have any further comments or suggested changes on how these priority actions will contribute to achieving Aim 4 (Strengthen leadership, engagement, and partnership working

All of these must be must more explicit and robust in relation to partnership working, and the importance of engaging with communities and victims, and third sector victim support organisations, particularly those from the VAWG sector.

Priority Action 13- The explanatory text on page 18 states *“In order to understand what is important to our communities and to avoid unconscious bias, community justice partners should also ensure that those with lived experience of the justice system have the opportunity to appropriately and effectively participate and that their experience is represented in order to inform policy development, implementation, and the design and delivery of services.”*

This text must explicitly state that *“those with lived experience”* also refers to victims of crime and that they will be afforded every opportunity to appropriately and effectively participate; that their experience will also be represented in order to inform policy development, implementation and the design and delivery of services. We have mentioned this above and it is absolutely pivotal to the revised Strategy and Delivery Plan.

Other

Q12- Do you have any other comments on the National Strategy for Community Justice: Revision Consultation document that were not captured in the national aims and priority actions questions?

We would comment that although the existing Strategy made much more of an explicit reference to victims of crime, this has not led to the expected level of engagement with victims and support organisations, particularly those in the local VAWG sector. Therefore, we would like to see much more meaningful engagement locally and nationally in the Community Justice Strategy going forward. We would also like to see evidence of this consistently across Community Justice Partnerships, their membership, work and monitoring of community disposals.

SWA looks forward to engaging further with the Scottish Government, Community Justice Scotland and other national and local partners in this work, including the development of the Delivery Plan.