



Response from Scottish Women's Aid

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.

We appreciate the opportunity to comment on this important issue, noting and agreeing the comments in the consultation paper at paragraph 20, namely *"Respondents to the 2020 consultation highlighted a potential disproportionate impact of the rule on women whose abuse is linked to their offending, for example through coercion as a result of sexual exploitation or trafficking, or a change in behaviour due to trauma from sexual assault. In this regard, we would refer to research published in 2021 that found around 78% of women in prison in Scotland have a history of significant head injury, most of which occurred in the context of domestic abuse lasting over several years. Almost all participants in the study (95%) reported a history of abuse."*¹

Having considered the issues raised in the consultation paper, reform would be of considerable support to women experiencing domestic abuse who have committed offences, or been coerced into offending by the perpetrator as part of the pattern of abuse, or who have offended as a consequence of the impact, particularly long-term, of the abuse on them. We would like to stress the following points:

- the unspent conviction rule should be revised and not automatically rejected based on unspent convictions
- we agree that the exclusionary part of the rule should not be retained in its current form and that there should be a discretionary system allowing an element of discretion applied when reviewing an individual's eligibility for the scheme. This will allow claims from those with unspent convictions to be assessed on their own merits on an individual, case-by-case basis, as was the case with the scheme prior to 2012 when the exclusionary rule was applied.
- A set of clear criteria and guidelines must be drawn up and applied which will explain how the discretion will be applied, and encouraging transparent decision making, particularly around appealing decisions
- CICA staff involved in making decisions regarding eligibility must have training, and access to domestic abuse competent guidance, on the cause, impacts and dynamics of domestic abuse to enable both a sensitive approach to discussions on these matters with women applicants to whom this process would apply, and also to allow appropriate consideration of the issues surrounding the conviction(s) in question.

¹ 20 Associations between significant head injury and persisting disability and violent crime in women in Scotland (Tom McMillan) - ([https://www.thelancet.com/journals/lanpsy/article/PIIS2215-0366\(21\)00082-1/fulltext](https://www.thelancet.com/journals/lanpsy/article/PIIS2215-0366(21)00082-1/fulltext))