

RESPONSE TO SCOTTISH GOVERNMENT'S CONSULTATION ON IMPROVING PROTECTIONS IN THE JUSTICE SYSTEM FOR WOMEN AND GIRLS



August 2026

About Aberlour

Aberlour is the largest solely Scottish children's charity. Delivering more than sixty services, we work with babies, children, young people and families, providing services and support in communities across Scotland. We work with them to overcome challenges including the impact of drugs and alcohol, growing up in and leaving care, poor mental health, living with a disability, experience of domestic abuse, and the impact of poverty and disadvantage. Aberlour offers compassionate support to babies, children, young people and families and supports them in their journey to heal and grow.

Introduction

Aberlour welcomes the opportunity to respond to this consultation on improving the justice system for women and girls in Scotland. As an organisation we place the safety, wellbeing and human rights of children and families at the heart of our practice.

We are acutely aware of the impact the justice system can have on our families, particularly mothers we work with. Our staff teams regularly support mothers and children to navigate the justice system and through the impact of domestic violence.

Aberlour, in partnership with Shelter Scotland, delivers The Bridges Partnership which helps mothers and their children in Glasgow who are or have been subjected to domestic abuse. The Bridges Partnership follows a gendered and rights-based approach to empower women and children in crisis to access safe and affordable housing, and provides intensive one to one emotional, practical and therapeutic support.

Aberlour, in partnership with Barnardo's and Falkirk Council, delivers Equally Safe Falkirk which provides early intervention and preventative support to reduce instances and the impact of domestic abuse.

Aberlour provides cash grants through our Urgent Assistance Fund to families with children aged 21 and under, or 25 and under who are care experienced, who are struggling to keep their heads above water. In its lifetime, the AUAF has awarded around £4 million to children and families in Scotland. Between January 2020 and August 2026 12,000 awards were provided to 37,000 people. 85% of lead applicants

were women and more than 21,000 children were supported. Domestic abuse was identified in approximately 22% of all awards. We know domestic abuse is often underreported, and it is therefore likely that the true proportion of awards to families affected by domestic abuse is higher.

Aberlour is one of Scotland's largest providers of family support services in Scotland, supporting more than 5500 children and their families in communities across the country. We currently deliver Scotland's biggest family support service on behalf of Glasgow City Council working with around 300 families across the city. Our Family Support Services provide a range of accessible, community-based family support to help disadvantaged babies, children, young people and families right across Scotland.

Our Intensive Family Support services includes two national Mother and Child Recovery Houses (MCRHs) and three regional Intensive Perinatal community-based services. These services provide intensive, trauma-informed and holistic support to mothers affected by substance use and their children, from pregnancy through to early childhood. Aberlour has worked in partnership with the Scottish Government, local and national stakeholders, and families to develop specialist models of care. We have demonstrated that we have reduced risk, prevented harm, and improved outcomes for babies, children and women. Families have described this support as life-changing and lifesaving. Around 90% of women accessing Aberlour's Intensive Perinatal services and Mother Child Recovery Houses have had experience of domestic abuse.

In addition to these services many of the women accessing other Aberlour services have experience of domestic abuse and other forms of violence against women and girls.

In response to this consultation, we have chosen to respond only to questions where we can provide insight from our organisational experience and knowledge or where we can reflect the views of children, young people and families we support. In preparing our response we have engaged with and reflected the views and experiences of mothers supported by our domestic abuse services and frontline workers.

Non-fatal strangulation

Question 1: Do you agree with the Scottish Government view on the benefits arising from the operation of current law in relation to non-fatal strangulation?

Aberlour is increasingly concerned about the easy access and normalisation of violent porn, and the impact on women, particularly young women. It is also well documented that around 50% of women subjected to domestic abuse have experienced strangulation, and victims of non-fatal strangulation are eight times more likely to be murdered by their partner.

Several mothers supported by Aberlour's domestic abuse services have experience of non-fatal strangulation but found it too triggering to share their experiences. This goes to show the deep and lasting psychological harm that persists long after physical injuries have healed following non-fatal strangulation.

"I experienced strangulation 7 years ago but my partner wasn't charged. He went on to abuse another woman which resulted in me being asked to relive my past and give police more information. 7 years is a long time to have to relive the past and get justice"
(Women supported by Aberlour)

For the current law to sufficiently respond to non-fatal strangulation it is imperative that victims are supported to disclose and that cases are understood as a serious and dangerous form of abuse. Where this is perpetrated within a domestic abuse relationship this must be captured as a course of conduct behaviour under the Domestic Abuse Scotland Act 2018 and not minimised as an isolated incident. We have commented elsewhere in our consultation response about increasing concerns about domestic abuse being charged under the Criminal Justice and Licensing (Scotland) Act 2010 rather than the Domestic Abuse (Scotland) Act 2018 despite there being clear patterns of ongoing coercive control. This is often justified by police as down to a lack of resources to gather evidence to meet the threshold for a charge under DASA, or victims being told by police "it's your word against his". Aberlour is extremely concerned that existing laws and protections for victims are being undermined by this practice and would urge the Scottish Government to urgently review and remedy this.

Question 2: Do you agree with the Scottish Government view for better recording of criminal cases where non-fatal strangulation arises?

Yes, Aberlour agrees that better recording of criminal cases where non-fatal strangulation arises is needed.

Spiking

Question 5: Do you have views on how the offence of spiking is addressed under existing laws?

Women supported by Aberlour's domestic abuse services shared concerns in relation to spiking within abusive relationships. This is an area of deep concern but is also very difficult for women to evidence. Given the prevalence of intersecting abuse within intimate partner relationships including sexual abuse and commercial sexual exploitation, we are increasingly concerned about the prevalence of spiking as a form of domestic abuse.

"In a bar environment you have staff and cameras and witnesses who can say they were fine one moment and not the next. But when it was me you just have yourself and your doubts - how do you take that to the police?" (Women supported by Aberlour)

"Women have lost trust in reporting incidents where there is a lot of evidence, let alone something like this" (Aberlour staff member)

"The police did nothing when I had bruises round my neck and blood streaming down my head after an assault. Why would I report something like that (spiking) where it's going to be your word against his?" (Woman supported by Aberlour)

Further work is needed to understand the prevalence of spiking within coercively controlling relationships and education for potential victims on how to spot the signs and where to access support and justice. Education alone is not sufficient without investment in person-centred, trauma informed services where victims can report, access forensic medical examination and ongoing support.

Question 6: Do you have views on the benefits of developing a standalone spiking offence?

In considering whether the current offences around spiking are sufficient more work must be done to ensure any new or updated offence would protect victims of domestic abuse where spiking is used as a tactic of control and/or to facilitate sexual violence, commercial sexual exploitation, and image-based abuse. This includes capturing the

occurrence of spiking within the context of domestic abuse as evidence of coercive control under the Domestic Abuse (Scotland) Act.

Question 7: Do you have any views on (a) how public awareness can be improved as to the dangers of spiking and (b) how to encourage individuals to report a spiking offence?

Any public awareness campaign must include the issue of spiking within intimate relationships and tackle stereotypes that spiking is only perpetrated by strangers in public spaces. Better mechanisms are needed to support victims in reporting to police, including access to trauma-informed forensic medical examination if women choose to report, and specialist support for victims.

Several women we spoke to about this consultation disclosed experiencing spiking by their partners, or suspicion that this had happened to them. None had disclosed this to police or support workers even when reporting other forms of domestic abuse because they assumed they would not be believed and there was no available evidence.

Coming to terms with the thought this may have happened to them was extremely uncomfortable.

"It probably happened to me but I don't want to think about it" (Woman supported by Aberlour)

Despite recent high-profile UK and international cases involving drug-facilitated sexual assault and online distribution of material within intimate partner relationships such as the cases of Gisele Pelicot, Zoe Watts and Amanda Stanhope, this remains an issue hiding in plain sight.

It is likely that we have barely scratched the surface of understanding and tackling spiking as a tactic of domestic abuse in Scotland. Aberlour urges the Scottish Government to consider how to raise public awareness, provide access to trauma-informed support for victims, and ensure that the laws and justice systems surrounding this issue are robust.

Statutory aggravation - offences committed against pregnant women

Question 8: Do you agree for a new aggravation in relation to offences committed against pregnant women by a partner or ex-partner?

Aberlour is supportive of requiring courts to treat pregnancy as a formal aggravating factor when sentencing domestic abuse offences to ensure that the additional harm and risk during pregnancy is acknowledged in every case.

It is well documented that coercive control and domestic abuse often begin or escalate during pregnancy and the proposed aggravation could act to recognise the heightened risks and harms for women and their unborn babies.

Many of the women supported by Aberlour's domestic abuse services have experienced coercive control and domestic abuse whilst pregnant.

Examples shared by women we support include:

- Pregnancy marking an escalation of jealous and controlling behaviour
- A woman being sat on whilst pregnant as a means of actively trying to harm her and her unborn child – these details were later wiped from charges
- A woman being spiked with harmful medication whilst pregnant
- A woman being stabbed in her stomach whilst pregnant
- A woman being pushed down the stairs whilst pregnant

Whilst these examples primarily relate to physical violence, we strongly believe the proposed aggravator must include the broader impacts and harms of verbal, emotional, psychological abuse, and threats of harm, experienced by many pregnant women and their unborn babies.

"The charges are being minimised... if a pregnant woman is pushed downstairs as I was we could lose our child. That's attempted murder, not a breach of the peace.... I know firsthand what it does to you emotionally and mentally and you don't just come back from it" (Woman supported by Aberlour)

Although the proposed aggravation is welcome, women voiced concerns over whether this would be routinely implemented, citing many examples where existing provisions for aggravation in relation to a child under the Domestic Abuse (Scotland) Act 2018 are not being applied. Many women described feeling that they, and their children, had been let down and the impact of abuse minimised through existing aggravation not being applied during sentencing.

One of the most common barriers to disclosure of domestic abuse we hear from mothers is the fear of their children being removed. Women often under-report domestic abuse experienced during pregnancy, or involving children, out of fear of their children being taken into statutory care or into the care of the perpetrator.

Women are often afraid of where information goes, what might happen, and are constantly weighing up the risks of disclosure and the risks of retaliatory and escalating violence and abuse. For a statutory aggravator in relation to pregnancy to be effective, women must feel safe in making disclosures without fear that professionals will hold them accountable for risks to their children through the actions of an abusive partner or ex-partner.

Children's voices and rights are central to the work of Aberlour. In relation to a proposed aggravator questions were asked about how children's voices will be considered:

"Children's voices aren't being heard anyway so why would they think their babies voices are going to be heard?" (Aberlour staff member)

In addition to a specific statutory aggravation Aberlour is supportive of calls to introduce clearer sentencing guidance and wider improvements in how the justice systems responds to pregnant victims who experience domestic abuse, including threats of harm to the unborn baby as a tactic of control, during pregnancy.

Prosecutorial powers to impose non-harassment orders (NHOs)

Question 9: Do you agree to COPFS being given a power to make an NHO against a person when offering an alternative to prosecution?

There was a range of views expressed on this proposal by the women and staff we spoke to. Not every woman supported by Aberlour wants their case to go to trial, but every woman wants themselves and their children to be safe.

Potential benefits

A potential benefit of this proposal could be to avoid women having to go through the courts which can be an extremely stressful and re-traumatising process with often insufficient support and communication for victims. This may be particularly beneficial in cases where there is not enough evidence to take to trial as a route to an NHO where it may not currently be granted.

Some victim-survivors do not want, or feel able, to engage with court proceedings which can be very stressful, time-consuming, confusing and often feel like an extension of controlling and coercive abuse.

“I think this is a great idea as a lot of women do not want to go to court to face the abuser” (Aberlour staff member)

“I welcome it. I asked for one (NHO) a long time ago and was told I couldn't get one without conviction” (Woman supported by Aberlour)

Women described their experiences of court proceedings and the impact of having to face their abuser in court was like an extension of the abuse. Especially in cases which result in no, or very low, sentences, this can feel like they are not believed and act as a barrier to reporting future abuse.

Potential risks

Some women felt concerned that the proposed approach to NHOs might mean fewer cases go to trial and limit women's access to justice and routes to safety. There was concern from some survivors that this approach could create a false choice between long-term justice and short-term safety.

Aberlour is concerned about potential unintended consequence including more domestic abuse cases being dealt with outside of court thereby undermining confidence in the justice system and limiting the ability to hold perpetrators accountable. This may create additional barriers to women reporting domestic abuse if they believe cases are likely to be diverted rather than prosecuted.

“I think (the proposal) is a waste of time and feel it should be took to trial as at least then woman get their side across and can feel safe” (Woman supported by Aberlour)

Even in cases where a sentence is received, many women do not believe the sentence matches the impact of the abuse on their life, children and those around them. Sentencing can act as a public acknowledgement of wrongdoing and a validation of women's experiences which can, for some women, give them the opportunity to move forward. Conversely, when sentences are not given or are very low, women can feel their experiences are invalidated which can compound their trauma, leaving them and their children in danger of further harm.

Additionally, we are concerned that this approach may further limit access to structured interventions to address offending behaviour and support victim safety.

The current NHO system is failing women

The overwhelming feedback in relation to proposed changes around NHOs was that the current system is failing women.

Staff in Aberlour's domestic abuse services expressed serious concerns around how NHOs are currently administered and enforced, stating that clients do not feel like their NHOs are being enforced adequately to provide safety to them and their children. We heard many examples of concerning practice surrounding NHOs including inconsistencies within professional understanding, utilisation and thresholds. This includes multiple examples of NHOs not being imposed despite a presumption under the Domestic Abuse (Scotland) Act 2018 that courts will impose a NHO unless it considers that there is no need for one to protect the victim-survivor safety¹.

"Police have told us directly in front of survivors that NHOs are 'not worth the paper they're written on'. If they don't have any faith in the system why would survivors bother proceeding with reporting?" (Aberlour staff member)

Even with NHOs in place women described enormous lengths they go to in order to keep themselves and their children safe including constantly changing phone numbers and moving house repeatedly.

"I'm having to run again and it isn't fair. The police can't keep me safe. The courts can't keep me safe." (Woman supported by Aberlour)

It is clear from the experiences of mothers supported by Aberlour that urgent work is needed to improve trust in the current NHO system to keep adult and child victim-survivors of abuse safe. Women's views about NHOs must be taken into account and be used in conjunction with other sentencing options.

Although there may be some potential benefits to extending NHOs through diversion, our position is that considerable work is needed to address serious shortcomings of the existing system in safeguarding survivors of domestic abuse and restoring confidence in breaches of NHOs before any changes take place.

Breaches of NHOs

Perpetrators of domestic abuse often employ multiple and creative tactics to circumnavigate NHOs.

Women described ongoing breaches of NHOs which they did not report out of fear of retaliation and a loss of faith in the justice system. Many women don't report an NHO

breach because they can't face going through the process all over again. Perpetrators are often aware of this fear which can contribute to a sense of impunity.

"And because there's no consequences of breaching a NHO, that perpetrator is just going on to continue to breach it because they're thinking well they'll not touch me anyway" (Aberlour staff member)

Aberlour staff felt strongly that there is currently not enough done to protect women and children when an NHO is breached. Conversely, we heard of multiple examples of double standards applied by police where women are charged if *they* have breached NHOs by contacting ex-partners, often in relation to children.

Examples of NHO breaches not taken seriously by police include:

- A woman being threatened by a perpetrator from outside her car and across the road
- Ex-partner parking outside of family home
- Perpetrators using social media as a constant reminder that they are watching, creating multiple anonymous accounts, and using friends and family to stalk women through their accounts
- Perpetrator being seen in local area despite geographic exclusion order in place
- Death threats being made by perpetrator via other people
- Daily breaches of NHO from perpetrator in prison through coordinated campaign of 6 phone calls a day via other inmates. When police were notified victim was told to contact prison. When prison were notified she was told to contact the police.
- Partner showing up at victim's house with a gun – this was recorded as a breach of the peace

Women felt there should be greater consequences for breaches of NHOs and that NHOs should only be lifted following a risk assessment in partnership with survivors to assess ongoing risk.

"Saying to a serious offender "please don't contact someone" with no repercussions is not going to do anything. It doesn't protect women and children who are at risk" (Woman supported by Aberlour)

A lack of joined up systems is creating harm for some victims. For example, one mother supported by Aberlour had an NHO in place but her ex-partner was then housed in the same block of flats meaning there was no protection at all for her in place.

One survivor suggested creating a separate system where women can record breaches to the police without officially reporting the incident to give the police a fuller picture of increasing risk.

Court-ordered child contact undermining NHOs

One of the most common concerns raised was that the aims of protecting victims of domestic abuse through NHOs are routinely undermined through ongoing child contact mandated through family courts. In practice this means that whilst an NHO order may be in place to manage risk to a victim-survivor, perpetrators may be able to legally contact them if it is in relation to their children. This sets up an incoherent system whereby women are forced into ongoing communication with their perpetrator despite having an NHO in place. Women reported multiple examples of perpetrators using communication about children as a means of furthering abuse through threats, intimidation, stalking and surveillance.

Examples include:

- Contact agreement stating dad can meet mum to do drop-offs and can contact her any time if it is about the children, despite an NHO in place. Dad contacts mum constantly under pretence it is about the kids
- Contact details for victim-survivor were shared with perpetrator through the family court about where the child was at school in a different city where the family had moved to seek safety

“The system says if you don’t leave an abusive relationship then they will take your kids. But if you leave, they give the abuser room to abuse you more” (Woman supported by Aberlour)

Staff report a lack of understanding of domestic abuse and the risks associated amongst those enforcing NHOs. Women are often required to navigate multiple systems where they are not believed or that she should try harder for dad’s sake. Mothers shared examples where they felt held to a higher standard of parenting by professionals than their ex/partners and not being believed, evidenced through ongoing court-mandated contact. The lack of joined up thinking about domestic abuse is a whole system issue which puts women and children at risk and creates barriers to seeking and achieving justice.

"I don't feel listened to because if I had been listened to then I wouldn't be forced into handing my children over to someone who is unpredictable and dangerous" (Woman supported by Aberlour)

"For me that abuse was worse than the initial abuse. Seeing your child manipulated into being part of the abuse" (Woman supported by Aberlour)

Women report feeling trapped and limits are placed on women and children being able to recover from abuse. As one support worker described: *"they are still in fight or flight mode, still hypervigilant, still having to go drop their child off with their dad. That system is trapping people in abuse and not allowing them to move on and heal and recover."*

This system failure is having serious consequences for the mental health of survivors, leading some women to feel desperate and suicidal.

"That's why women are taking their own lives because there's nothing else you can do. No one else other than (Aberlour support worker) would help me, the police, the courts, the home office, no one believes me, they can't do anything. I wrote my kids letters" (Woman supported by Aberlour)

When considering changes to how NHOs are imposed in relation to domestic abuse, we strongly advocate a requirement to map perpetrator patterns and the associated risks to women and child survivors of abuse. Tools such as Safe and Together help to map the location and patterns of risk and harm, and partner with adult survivors of domestic abuse to recognise their strengths and efforts to keep their children safe. Lessons from this model should be taken and implemented across all relevant systems including Police Scotland and the wider court system.

The lack of direct support for children in navigating the justice system and the impact of abuse was highlighted by mothers as a particular concern. Children and young people need support in their own right and access to timely and age-appropriate information.

Views of victim-survivors

Currently the views of women in relation to NHOs are gathered by support agencies who present them to a court. Aberlour is concerned about how this new proposal would work in relation to gathering and representing the views of women and how much weight a victim-survivor's view would have when decisions about NHOs are made.

Question 10: Do you agree on how applications to vary or revoke an NHO made by COPFS should be handled with court involvement suggested for any appeals?

Aberlour considers it appropriate that if COPFS is given the power to impose an NHO any disputes or challenges should be subject to judicial scrutiny. There is currently insufficient clarity on how this would operate in practice, including how victim-survivors voices will be taken into account and ensuring victim-survivors are fully informed.

Question 11: Do you agree an NHO made by COPFS as part of an alternative to prosecution should have a maximum time period of 12 months?

Women supported by Aberlour and staff felt strongly that this proposal does not reflect the reality of domestic abuse.

“Abuse doesn’t just end after 12 months” (Aberlour staff member)

"I am 9 years out of my abusive relationship and the anxieties and worries are still there. 12 months would mean the perpetrator could contact you again before you had even come to terms with what has happened to you." (Woman supported by Aberlour)

At Aberlour the exit point from our service is when a survivor has sufficient support around them to manage risk - not that the abuse has ended or they are no longer at risk. Considerations about the length of NHOs must be grounded in managing risk and done in partnership with women and children.

Online and technology-facilitated harm: intimate images - deepfakes

Question 12: Do you agree with the Scottish Government proposal for a creation offence?

Yes

Question 13: Do you agree with the proposal for a requesting creation offence?

Yes

Online and technology-facilitated harm: intimate images - nudify apps

Question 14: Do you agree with the proposal for a new production, supply and offering to supply offence?

Yes. Additionally, where deepfakes are used within a domestic abuse relationship this should be used as evidence in support of a course of conduct offence under the Domestic Abuse (Scotland) Act 2018.

"I was humiliated and then made to feel by Police Scotland that it was my fault for sending him it when he had them from years before we split up" (Woman supported by Aberlour)

"My ex-partner manipulated my child into creating AI nude images of me and sharing them on social media. This was whilst he was in prison. It wasn't taken seriously at all" (Woman supported by Aberlour)

Online and technology-facilitated harm: general criminal law

Question 15: Do you consider that there are any specific changes to the current criminal law that would improve how the justice system is able to respond to technology-facilitated and online harms?

Digital abuse of women is soaring through the weaponization of technology. Aberlour has seen a dramatic increase in recent years of families we support experiencing domestic and sexual abuse through digital abuse using devices such as mobile phones, doorbell cameras, and gaming platforms.

For example:

- Repeated stalking and harassment through setting up fake social media profiles of a woman related to honour-based violence to try and isolate her from her community
- Many examples of revenge porn and threats of revenge porn
- Monitoring and surveillance through phones, trackers, smart doorbells, cameras in the home etc.
- Stalking and harassment of women through children's devices such as requests to be shown round the home via iPad/phone cameras and installation of tracking apps

Perpetrators often use multiple and creative digital methods to stalk, monitor, harass, threaten, humiliate and control women and children. Digital abuse is used by perpetrators to exert coercive control long after relationships have ended. Frontline workers warn that technology is evolving so rapidly that basic security measures such as advising women to check their sharing permissions and change their passwords are no longer enough.

“Men can be monitoring absolutely everything on their former partner’s phones while leaving no trace whatsoever” (Aberlour staff member)

Domestic abusers often target children with tactics of digital abuse, including use of gaming and streaming platforms like Xbox and PlayStation to find out their location or manipulate them.

Digital platforms are also used by perpetrators of domestic abuse to exert financial control and create coerced debt. Examples include partners and ex-partners having continuing access to banking apps, shopping accounts, and email accounts.

“I only found out my partner had taken out car finance and credit cards in my name when he was sent to jail for something else and the payments stopped. I've been told by the bank I have to keep paying” (Woman supported by Aberlour)

Post-separation economic abuse has been made more accessible to perpetrators through the use of technology. Accessing online accounts to drain finances, commit fraudulent activities and create financial difficulty for victim-survivors and their children, further extending their control over their lives resulting in high levels of anxiety and ongoing vigilance. Economic abuse has a long-term impact on families’ ability to recover fully from the trauma caused by domestic abuse.

Some of these behaviours can be seen as minor when looked at in isolation, or treated as separate crimes (i.e. fraud) but we need to recognise their impact as part of a wider pattern of control and abuse and be realistic about the reality for women and children experiencing domestic abuse. The impact of ongoing digital abuse in the context of coercive control can have a profound impact on victim-survivors who often feel that nowhere is safe due to the potential for constant surveillance. Women report a fear of being perceived as paranoid when sharing concerns about digital surveillance by partners and former partners.

The online environment is part of our everyday lives for work, learning, information, socialising, leisure activities and accessing support. Women should not be forced to retreat from online life because of abuse. Isolation is a common and powerful tactic of coercive control. Aberlour is concerned that government-backed action which seeks to protect women and children from online harm places the responsibility of individuals to limit and manage their online presence rather than holding tech platforms responsible for preventing online harm. This can reinforce isolation and increase barriers to seeking help and recovery.

“He was nowhere near the house but when he was trying to access my devices it felt like he was right outside trying the locks. It makes you feel vulnerable.” (Woman supported by Aberlour)

“I experienced digital stalking and harassment from my ex partner, taking control of my accounts and threatening revenge porn. I wish I was supported through education of these types of abuse. The onus was on me to report crimes and detail them without knowing what I was experiencing at the time.” (Woman supported by Aberlour)

“For me it’s another layer of social isolation, I spent years unable to see friends but now I’m scared to like or comment on anything in case he sees. I can’t share a picture because it tells him what I’m doing. I can’t use public platforms for work because it shows him my daily use. I’m self-employed but can’t promote what I do or share my contact information because he’ll abuse it.” (Woman supported by Aberlour)

Frontline staff highlighted a big grey area is social media use and NHOs, reporting that women are often followed using social media and other means of digital surveillance. When reported to police, women are being told it is not a breach of the NHO and too resource-intensive to investigate. Examples were given of perpetrators using social media as a constant reminder that they are watching and using friends and family to stalk women through their accounts or through creating multiple anonymous accounts.

Online and technology-facilitated harm: further steps that could be considered

Question 16: Do you have any views to offer on further steps to reduce online and technology-facilitated harm?

Aberlour strongly believe that steps to reduce online and technology-facilitated harm must extend beyond legislative reform and prioritise prevention and education. This includes capacity building across sectors to understand how technology is used to abuse women, girls and children and how to appropriately assess risk.

Aberlour delivers a local programme of work in Falkirk for high school aged boys to provide a safe space for them to talk about their worldviews and to develop a deeper understanding of gender-based violence. The programme looks to change behaviour and encourage boys to challenge others. This is the type of work that can more meaningfully combat the harms of social media, building resilience and encourages self-reflection and improvement. When asked if they noticed a change within themselves, one boy fed back, *“Yes because I have learnt so much, I think I am a better person.”*

In addition to increased resourcing and capacity building in relation to prevention, education, and training, Aberlour considers the most important lever the Scottish Government has is in introducing regulatory duties on tech platforms themselves in line with the aims of Equally Safe and to ensure the human rights of everyone in Scotland are upheld.

We would encourage the Scottish Government to explore all avenues to keep children safe online from coercive, domestic or sexual violence following recent announcements from the UK Government to introduce a ban on some social media use for children. The ban could have negative consequences on the development of children and young people to build digital resilience which keeps them safe online. We know from other countries who have implemented this ban that children will still use social media through unregulated channels or going incognito. If children are hiding their social media use, they are less likely to talk about harmful content they may see and other issues that arise around relationship-based or sexual violence.

We would call on the Scottish Government to do all it can to hold tech companies to account for ensuring their platforms are safe for use for all and to take a joined-up approach to considerations around online harm. The UK Government’s recent decision to introduce a ban to certain social media platforms for under 16s risks shifting the burden of responsibility to children rather than holding companies to account. Algorithms designed to keep people interested and become addictive are incredibly harmful if the content is encouraging or normalising violence. We recognise that social media has played a part in inciting violence against women and girls, but we

do not believe a ban improves the situation and that responsibility lies with the companies who make social media spaces unsafe.

Additional comments

Frontline domestic abuse workers at Aberlour observe that a very high proportion of the women they support in relation to reporting domestic abuse are having their cases charged as breach of the peace under the Criminal Justice and Licensing (Scotland) Act 2010 rather than the Domestic Abuse (Scotland) Act 2018 despite there being clear patterns of ongoing coercive control. This is often justified by police as down to a lack of resources to gather evidence to meet the threshold for a charge under DASA, or victims being told by police "it's your word against his". Aberlour are extremely concerned that existing laws and protections for victims are being undermined by this practice and would urge the Scottish Government to urgently review and remedy this.

We are concerned by the number of women supported by Aberlour domestic abuse services who experience delays to police response to 999 calls even when 'Storm Markers' are in place. Storm Markers should trigger a priority response from Police, but we have numerous examples of women waiting up to an hour where there was an immediate risk and being questioned why they are calling to report at all. Additionally, women have made silent calls to police when the perpetrator has been present in the home and there was no police response at all, even with MARAC involvement in the case.

We are aware of several cases where access to justice for survivors of domestic abuse is being denied due to a clash of political priorities between the Home Office and Police Scotland if domestic abuse is perpetrated by someone without legal status to remain in Scotland.

"It's been two years of MARAC involvement and reporting to the Police but there's never been an actual charge. The Police say it's a Home Office issue and the Home Office say it's a Police Scotland issue. Meanwhile I'm getting constantly beat up and tortured" (Woman supported by Aberlour)

In preparation for our response to this consultation several women and staff raised concerns over the increased numbers of domestic homicides in Scotland and the risks of serious, and potentially fatal, harm women and children are navigating every day. The main actions they called for include:

- Sustained multi-year funding for domestic abuse services to meet increasing referrals and delivery costs
- Addressing delays in the justice system and ending the practice of early release for domestic abuse offences
- Consistent and proportionate consequences for breaches of bail conditions and NHOs
- Overhaul to the tracking technology used in bail conditions for domestic abuse including consideration of introducing GPS tracking
- Vastly improved and expanded perpetrator interventions and rehabilitation. Several women reported their partners came out of prison far more dangerous with links to organised crime and having learned new tactics of abuse.

“He went to jail to keep me and my children safe. They’ve released a far bigger monster” (Woman supported by Aberlour)

"Prison is a breeding ground for hatred towards women" (Woman supported by Aberlour)

"It makes it far more dangerous for women and children because they come out of jail wanting retribution. They’re coming out ten times worse" (Woman supported by Aberlour)

Impact assessments

Question 17: Do you have any views on potential impacts of the proposals in this consultation on human rights?

Many of the proposals in this consultation have clear intersections with human rights including ensuring that women and children’s voices are fully considered, the right to privacy and the right to a fair process.

Question 18: Do you have any views on potential impacts of the proposals in this consultation on equalities and protected characteristics?

Women and children from minoritised communities and with disabilities are often at increased risk of domestic abuse and other forms of violence against women and girls, and can face additional barriers in reporting, accessing support, and navigating the justice system.

Question 19: Do you have any views on potential impacts of the proposals in this consultation on children and young people as set out in the UN Convention on the Rights of the Child (UNCRC)?

Children's views and experiences remain hidden in many areas of policy and the justice system in relation to domestic abuse and other forms of violence against women and girls.

Children have a right for their views to be considered in decisions made about them, but Aberlour continue to see harms children and families experience through failures in the justice system in relation to domestic abuse. As highlighted in our consultation response a particular area of concern is around court-ordered contact in the context of domestic abuse where children's views are routinely not being sought or considered.

Children experience domestic abuse as victims and cannot be considered an after-thought within adult-centric justice systems. Many of the issues covered in this consultation response affect children profoundly and have an impact on their healthy development and capacity to heal and recover when harm has taken place.

As one Aberlour support worker said *"Children are still invisible in the system and completely missing"*

Question 20: Do you have any views on potential impacts of the proposals in this consultation on socio-economic equality?

Women and children experiencing socio-economic disadvantage often face additional barriers to reporting abuse and accessing justice and appropriate support.

Question 21: Do you have any views on potential impacts of the proposals in this consultation on communities on the Scottish islands?

Women and girls in rural and island communities can face additional barriers to accessing justice and support. Consideration must be given to the additional isolation, costs, and risks faced by women living rurally in the context of domestic abuse.

Question 22: Do you have any views on potential impacts of the proposals in this consultation on privacy and data protection?

No

Question 23: Do you have any views on potential impacts of the proposals this consultation on businesses and the third sector?

The third sector plays a vital role in Scotland in supporting women and girls affected by domestic abuse and other forms of violence against women and girls. In the context of this consultation and wider public service reforms it is vital that the Scottish Government invests in multi-year funding for vital services delivering prevention and support for women and girls to navigate the justice system.

Question 24: Do you have any views on potential impacts of the proposals in this consultation on consumers?

No

Question 25: Do you have any views on potential impacts of the proposals in this consultation on the environment?

No

For more information contact Kay Steven, Policy Officer (kay.steven@aberlour.org.uk)
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