

# **Consultation Response: Prevention of Domestic Abuse (Scotland) Bill**

September 2025

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## Introduction

The Scottish Human Rights Commission ("SHRC") is a public body created by the Scottish Commission for Human Rights Act 2006.

We are an independent, expert body that works with and for the people of Scotland; we monitor, listen, speak up for all of our rights and respond when things go wrong. The SHRC is also part of the international human rights system. It is accredited by the United Nations as its trusted organisation to provide impartial evidence on the enjoyment of human rights in Scotland. The SHRC is independent of Government. We are accountable to the people of Scotland via the Scottish Parliament.

The SHRC welcomes the Criminal Justice Committee's scrutiny of the Prevention of Domestic Abuse (Scotland) Bill and the opportunity to provide our views. We do so under Section 3 of the Scottish Commission for Human Rights Act 2006.

The following submission builds on the SHRC's monitoring and reporting work to support the review of the UK under the Council of Europe Convention on preventing and combating violence against women and domestic violence<sup>1</sup> ('the Istanbul Convention').

In summary:

- Violence against women, including domestic abuse, is recognised by human rights bodies as a pervasive violation of rights and leads to unequal enjoyment of many interconnected human rights standards and principles.
- The Scottish Parliament must ensure compliance with the European Convention on Human Rights (ECHR). Case law demonstrates that to do so, the State has obligations to prevent, prosecute and punish acts of harm, including domestic violence.
- The SHRC is supportive of steps to improve data collection and quality on this matter. This aligns with the report we submitted to inform the most recent monitoring of compliance with the Istanbul Convention.
- With respect to the other proposed measures in this Bill, the Committee should in its scrutiny consider whether there is sufficient evidence that the proposals can be implemented effectively, and whether they will support the police and other bodies to prevent domestic violence in practice.
- In accordance with the PANEL principles - a framework for a human-rights based approach - this consideration should be informed by the lived experience of those affected by domestic abuse.

## Overview of the Prevention of Domestic Abuse (Scotland) Bill

The Bill aims to reduce incidences of domestic abuse through the introduction of preventative measures at different points of intervention. These measures consist of:

- The introduction of notification requirements similar to those in place for people convicted of sex offences for people convicted of domestic abuse and extending existing multi-agency public protection arrangements (MAPPA) under the Management of Offenders etc. (Scotland) Act 2005.
- Establishing opportunities for rehabilitation measures for domestic abuse offenders at different stages of the criminal justice system: prior to sentencing, while in custody and prior to release.
- New obligations to collect data on the victims of domestic abuse for Police Scotland, the Crown Office and Procurator Fiscal Service and charities and the production and publication of an annual report to the Scottish Parliament by Scottish Ministers
- Duties for Ministers and local authorities to provide domestic abuse education in schools.<sup>2</sup>

## Violence Against Women and Girls and Domestic Abuse in human rights

Violence against women and girls is a pervasive and deeply rooted human rights violation. The Istanbul Convention defines such violence as "violence that is directed against a woman because she is a woman or that affects women disproportionately". Violence against women and girls reinforces women and girls' lesser access to power, security and socio-economic opportunities, leading to multifaceted threats to rights.

While human rights law is primarily focused on the actions of State bodies towards individuals, this includes the measures that States put in place to prevent, prosecute and punish acts of harm perpetrated by private people towards other people.<sup>3</sup>

There are a number of ways in which domestic violence and human rights are interconnected. For example:

- Gender-based violence undermines core human rights principles such as human dignity and equality.<sup>4</sup>

- The right to equality and non-discrimination - both a cross-cutting principle of human rights law and a specific provision in human rights treaties - requires the State to pay particular attention to certain groups of people and respond to the reasons their rights might be more at risk compared with other groups.<sup>5</sup>
- The violence itself could cause harm that is incompatible with the right to be free from torture or inhuman or degrading treatment or punishment, or even the right to life. If public bodies knew or ought to have known about the risks and did not take appropriate steps to prevent it this may lead to a violation.<sup>6</sup>
- The real or perceived threat of violence can lead women and girls to change their lifestyles or patterns, undermining their enjoyment of other rights such as to work, education or healthcare or to assemble or express their views.<sup>7</sup>
- Being a victim of violence and going to court engages the right to fair trial or to a remedy.<sup>8</sup>

All of this means that human rights cases that involve violence against women have been considered by a range of human rights bodies, including the European Court of Human Rights, under an array of substantive legal obligations.

## **Key Aspects of the Human Rights Framework Applicable to Domestic Abuse**

### **European Convention on Human Rights (ECHR)**

All acts of the Scottish Parliament must comply with the ECHR<sup>9</sup> and all acts of public bodies must be compatible with the Human Rights Act 1998, which incorporates (brings into UK law) the ECHR.<sup>10</sup>

The European Court of Human Rights (ECtHR) has considered many cases looking at the state's obligations in situations of violence against women and girls<sup>11</sup> and domestic violence.<sup>12</sup> The case of *Opuz v Turkey*<sup>13</sup> is a landmark decision articulating how violence against women is a gendered social problem.<sup>14</sup>

This case concerned a Turkish woman who had been subjected to years of domestic abuse. She had reported the abuse to the police on several occasions, but her husband was only briefly detained and given fines. As his threats increased, the victim and her mother asked the police to investigate but they considered the issue a private matter. The husband then shot and killed the victim's mother, and although

he received a life sentence for this crime, he was subsequently released pending an appeal.

The ECtHR found violations of Article 2 (the right to life), Article 3 (freedom from torture or inhumane or degrading treatment) and Article 14 (equality and non-discrimination in convention rights) in conjunction with Articles 2 and 3. This judgement explicitly challenged the idea that domestic abuse is a private or family matter.

The judgment highlights that the Turkish authorities ought to have known about the impacts and risks of domestic abuse, especially to women, based on the statistical information available and responded appropriately. The judgement cites a range of official and NGO statistics on the prevalence of domestic abuse, emphasising the importance of this data for both public actors and individuals navigating Article 14. By relying on the broader body of international human rights law that had developed on gender-based violence against women and girls, the ECtHR framed gender-based violence as a form of gender-based discrimination covered by the ECHR.

A more recent case, *Y and Others v Bulgaria*, sets out how positive obligations to protect people from violence should be applied in cases of domestic abuse.<sup>15</sup> In this case a woman was shot and killed by her estranged husband with a firearm he owned legally. The victim had contacted the police about her husband on several occasions in the two years prior to the shooting. She also had a civil protection order against her husband at the time of her murder. The ECtHR found a violation of Article 2 as the Bulgarian authorities had not used the tools available to them to counter the risk to the victim's life.

While in this case the ECtHR was not convinced that the Bulgarian authorities "demonstrated a general and discriminatory passivity" towards domestic abuse, the case is still helpful in clarifying the State's obligations to respond to concerns about domestic abuse. Authorities must respond immediately to allegations, assess risk through an "autonomous, proactive and comprehensive risk assessment" which takes into account the special context of domestic violence, and if that risk assessment reveals that a real and immediate risk to life exists, authorities must take preventative operational measures that are adequate and proportionate to the assessed level of the risk.<sup>16</sup>

## Council of Europe Convention on preventing and combating violence against women and domestic violence ('Istanbul Convention')

The ECtHR's judgement in *Opuz v Turkey* led to the development of what is known as the Istanbul Convention.<sup>17</sup> The Convention is a regional human rights treaty to address violence against women and girls and domestic violence. It has over 60 substantive articles, divided through practice into four pillars – prevention, protection, prosecution and gender-sensitive policies.<sup>18</sup> In responding to the structural nature of violence against women and girls, the convention also recognises that boys and men can also be victims of domestic violence.<sup>19</sup>

Although Scotland has not incorporated the Istanbul Convention into domestic law, as with other international human rights treaties, under the Scotland Act 1998 Scotland has domestic responsibilities to observe and implement international law.<sup>20</sup> The Scottish Government has drawn from the principles of the Istanbul Convention in the development of the National Strategy for Violence Against Women and Girls, Equally Safe, and committed to developing an action plan to implement findings from the first review (see below.)<sup>21</sup>

The specific provisions in the Istanbul Convention relevant to this Bill include:

- Article 5 – State obligations and due diligence: "Parties shall take the necessary legislative and other measures to exercise due diligence to prevent, investigate, punish and provide reparation for acts of violence covered by the scope of this Convention that are perpetrated by non-State actors."
- Article 11 – Data collection and research: "Parties shall undertake to... collect disaggregated relevant statistical data at regular intervals on cases of all forms of violence covered by the scope of this Convention;"
- Article 14 – Education "Parties shall take, where appropriate, the necessary steps to include teaching material on issues such as equality between women and men, non-stereotyped gender roles, mutual respect, non-violent conflict resolution in interpersonal relationships, gender-based violence against women and the right to personal integrity, adapted to the evolving capacity of learners, in formal curricula and at all levels of education."
- Article 16 – Preventive intervention and treatment programmes " Parties shall take the necessary legislative or other measures to set up or support programmes aimed at teaching perpetrators of domestic violence to adopt

non-violent behaviour in interpersonal relationships with a view to preventing further violence and changing violent behavioural patterns."

## Other considerations from the human rights framework

Violence against women and girls is treated as a form of discrimination within the Convention on the Elimination of All form of Discrimination Against Women (CEDAW).<sup>22</sup> When the UK was last reviewed by the monitoring body for CEDAW in 2019, Scotland's national gender-based violence strategy, Equally Safe, was picked out as an area of progress. However, the monitoring body were concerned about sufficient access to specialist services, especially for asylum seeking or migrant women and girls and disabled women and girls.<sup>23</sup> The Committee has outlined its own list of obligations on States for acts of non-State actors who commit acts of gender-based violence.<sup>24</sup>

The UN Human Rights Committee, which monitors compliance with the International Covenant on Civil and Political Rights, has also considered violence against women and girls in its analysis. In 2024, the Human Rights Committee recommended steps that the UK should take to strengthen efforts to combat violence against women and girls, including domestic and sexual violence, and take steps to ensure comprehensive protection and support for all victims of gender-based violence, including migrant women and girls, regardless of their migratory status.<sup>25</sup>

## Considerations for Parliament in respect of the Bill's compliance with or furthering of international obligations

Based on the case law above, it is the operationalisation of measures and their success at supporting state actors to intervene that is essential to meeting human rights obligations relevant to violence against women.

In June 2025, the Council of Europe Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) published its baseline assessment of the UK's efforts to protect, respect and fulfil its obligations under Istanbul.<sup>26</sup>

The SHRC produced an assessment of Scotland's compliance with the articles of the Convention. This assessment concluded that while Scotland's approach to violence against women and domestic abuse draws from international and regional human rights standards and is "comprehensive and ambitious", there is a gap between policy and practice. Women's experience often falls short of the expectations set out



in the Equally Safe violence against women and girls strategy. We suggested there needs to be more intersectionality, accessibility and cultural sensitivity in policy and practice and that closer alignment with human rights standards could be helpful in driving improvement in data quality and disaggregation needed to measure progress.<sup>27</sup>

Our written evidence drew from a number of sources, including focus groups with women who were victim-survivors of gender-based violence. We produced a supplementary report ["It's Not a Story, It's What Happened"](#) to share insights with GREVIO in the women's own words.<sup>28</sup> These testimonies cover aspects within the Bill, such as education, perpetrator programmes and preventive risk assessment.

GREVIO has issued 62 recommendations – termed ‘proposals and suggestions’<sup>29</sup> – to improve the situation across the UK, addressing devolved authorities throughout. Many of these are likely to be helpful in strengthening the protection, prevention and prosecution of gender-based violence and domestic abuse.

The most relevant suggestions for the Bill are:

1. Part 1 of the Bill introduces "notification requirements" for people convicted on indictment of an offence involving domestic abuse. These are similar to existing requirements for those convicted of sex offences. The Committee should consider whether these meet the recommendation of GREVIO in its report that "Concern for the victim's safety must lie at the heart of any intervention in cases of all forms of violence covered by the Istanbul Convention." This cites Article 5 of Istanbul's obligation to effectively assess and devise a plan to manage the safety risks a victim faces on a case-by-case basis, according to standardised procedures and in co-operation with each other.
2. S.15 of the Bill adds domestic abuse offenders subject to the notification requirements to the Multi Agency Public Protection Arrangements (MAPPA) scheme. This is in line with the strong encouragement by GREVIO for more robust use of existing domestic violence multi-agency co-operation mechanisms for the prevention of further acts of violence. They specifically refer to the need for specialist support and adequate and systematic training (27). Elsewhere in the

report, GREVIO welcomes the existence of statutory guidance for MAPPAs (para 393).

3. Part 2 increases the opportunities to consider access to mandatory rehabilitation measures for domestic abuse offenders. In suggestion 24, GREVIO strongly encourages UK authorities to ensure that perpetrator programmes adhere to available standards, that mandatory and voluntary attendance in community and prison settings are possible and that "all available means are used to promote and increase their attendance." Finally, they encourage greater data collection on places and recidivism. GREVIO's Baseline Assessment report reflects positively on the Caledonian System as a gender-sensitive perpetrator intervention. While acknowledging the positives highlighted, the SHRC would also draw attention to some concerns about the efficacy, the consistency of delivery and monitoring of this and other perpetrator programmes, as highlighted through our own report.<sup>30</sup>
4. Part 3 covers steps to require the mandatory gathering of "relevant personal data", as defined in s.20(1). Data collection should include age, sex, disability, nationality and care experience (s.20). This is in line with the recommendations of GREVIO. Its recommendations include steps to improve harmonisation across agencies, gather data on all forms of violence reported to various agencies, and improve data on the geography, relationship between victim and perpetrator and asylum claims made as a result of gender-based violence. The Committee may wish to consider the other minimum categories of data encouraged by GREVIO, namely type of violence and geography.
5. Part 4 creates new obligations for Scottish Ministers and Local Authorities to promote, facilitate and support domestic abuse education in schools. In suggestion 19, GREVIO welcomes efforts across the UK on violence against women education in schools but strongly encourages a common baseline and oversight by an Istanbul monitoring body. They also strongly encourage adequate public

financing and monitoring of the use by teachers of materials to ensure consistency. GREVIO strongly encourages mandatory school curricula to cover gender equality and gender stereotypes in addition to all forms of violence covered by the convention.

The SHRC recognises that some of these proposals would respond positively to GREVIO's recommendations, especially those relating to data. However, other parts of the Bill represent significant operational changes that the Committee should be confident will not have detrimental impacts on the functioning of existing systems..

As it stands, from the available materials published, it is not yet clear that there is sufficient technical and financial resource across the relevant agencies to ensure aspects of the Bill such as risk assessment and mandatory rehabilitation processes or school-based programmes are likely to be effective at meeting the goal of preventing domestic abuse or protecting women and girls.

While the SHRC recognises and supports, in principle, the stated policy intention behind proposals in part 1 of the Bill, we are not yet reassured that there is evidence of need for these particular measures and that they would not have detrimental impacts. This concern reflects in part the earlier consultation response from the Law Society of Scotland, which highlights the potential impacts for Police Scotland, as well as GREVIO's findings in respect of women's current levels of trust with police.<sup>31</sup>

As the legal framework presented above shows, it is imperative to meeting the UK's human rights obligations to protect women and girls from gender-based violence that the system of protection is effective and people within the system have the specialist skillsets needed to deliver them, including specialist risk assessment and gendered-understanding of women's experience.

We encourage the Committee to scrutinise these particular aspects further and seek assurances that the proposals in the Bill are matched by the necessary support and capacities.

The Scottish Government has committed to producing a plan to respond to GREVIO's findings as part of the Delivering Equally Safe Action Plan<sup>32</sup> and we encourage the Committee and Parliament to consider the full list in the course of its wider work plan.

## Considerations in respect of the rights of persons convicted of domestic abuse

Finally, the Committee must also consider the human rights of people accused of domestic abuse and whether the Bill poses any risk to their rights.<sup>33</sup> In particular the rights to privacy (Article 8) and potentially fair trial (Article 6) in respect of challenge under the ECHR. Guidance on this assessment can be taken from the UK Supreme Court, who previously considered the notification requirements for offenders under the Sexual Offences Act 2003.<sup>34</sup>

“Awareness of the context the proposals will sit in is key, and HMIPS has recently highlighted that the system of prisoner progression in Scotland is in urgent need of re-evaluation and further investment.<sup>35</sup> The SHRC has recently published a discussion paper on Orders for Lifelong Protection. While not specific to domestic abuse and gender-based violence, the paper highlights broader issues with access to rehabilitation programmes in Scottish prisons that may have broader consequences for the likelihood of success of proposals in this Bill.<sup>36</sup>

## Conclusion

The SHRC welcomes the policy intention behind the Bill and the Committee's attention on strengthening prevention of domestic abuse. As we have outlined, there is a strong and interwoven international human rights legal framework which covers all aspect of gender-based violence. The Committee should consider the proposals in this Bill within this context and ensure that the system in place to prevent domestic abuse and protect victim-survivors is effective and sufficiently resourced both technically and financially.

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<sup>1</sup> In this submission we refer to domestic abuse, as is the common practice in Scotland and reflecting this Bill. However it is common international materials to refer

to domestic violence, which hold a broad definition. We consider the two terms should be understood in this context to mean the same thing.

<sup>2</sup> [Prevention of Domestic Abuse \(Scotland\) Bill Policy Memorandum \(2025\)](#)

<sup>3</sup> [Osman v United Kingdom \(87/1997/871/1083\)](#)

<sup>4</sup> [Committee on the Elimination of Discrimination Against Women General recommendation No. 19: Violence against women](#)

<sup>5</sup> [Opuz v Turkey \(Application no. 33401/02\)](#) paragraph 200

<sup>6</sup> [Opuz v Turkey \(Application no. 33401/02\)](#)

<sup>7</sup> Women's Aid England have published a webpage on the impacts of domestic abuse which includes a long list of impacts for women, children and society: The impact of domestic abuse - Women's Aid (webpage)

<sup>8</sup> [Fundamental Rights Agency \(2019\) Victims' rights as standards of criminal justice for victims of violent crime Part](#)

<sup>9</sup> [Scotland Act 1998](#)

<sup>10</sup> [Human Rights Act 1998 s.6](#)

<sup>11</sup> [European Court of Human Rights \(2024\) Factsheet – Violence against women](#)

<sup>12</sup> [European Court of Human Rights \(2023\) Factsheet – Domestic violence](#)

<sup>13</sup> [Opuz v Turkey \(Application no. 33401/02\)](#)

<sup>14</sup> [Council of Europe \(webpage 'The landmark judgment that inspired Europe to act on violence against women - Impact of the European Convention on Human Rights'\)](#)

<sup>15</sup> [Y and others v. Bulgaria \(Application no. 9077/18\)](#)

<sup>16</sup> [Y and others v. Bulgaria \(Application no. 9077/18\)](#) para 122

<sup>17</sup> [Council of Europe \(webpage 'The landmark judgment that inspired Europe to act on violence against women - Impact of the European Convention on Human Rights'\)](#)

<sup>18</sup> [Council of Europe 'The four pillars of the Istanbul Convention - Gender Equality'\(Webpage\)](#)

<sup>19</sup> [Council of Europe 'The Convention in brief - Istanbul Convention Action against violence against women and domestic violence' \(webpage\)](#)

<sup>20</sup> [Scotland Act 1998 Schedule 5](#)

<sup>21</sup> [Scottish Government \(2024\) Equally Safe: delivery plan](#)

<sup>22</sup> [Committee on the Elimination of Discrimination against Women General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19](#)

<sup>23</sup> [Committee on the Elimination of Discrimination Against Women Concluding observations on the eighth periodic report of the United Kingdom of Great Britain and Northern Ireland](#)

<sup>24</sup> [Committee on the Elimination of Discrimination against Women General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19](#)

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<sup>25</sup> [Human Rights Committee Concluding observations on the eighth periodic report of the United Kingdom of Great Britain and Northern Ireland](#)

<sup>26</sup> [Group of Experts on Action against Violence against Women and Domestic Violence \(GREVIO\) \(2025\) GREVIO Baseline Evaluation Report United Kingdom](#)

<sup>27</sup> [Scottish Human Rights Commission \(2023\) Submission to the Council of Europe Group of Experts on Action against Violence against Women and Domestic Violence \(GREVIO\) Parallel Report for the Baseline Report in Monitoring the United Kingdom](#)

<sup>28</sup> [Scottish Human Rights Commission \(2023\) "It's Not a Story, It's What Happened" Victim-Survivors of Gender-Based Violence: In Our Words](#)

<sup>29</sup> GREVIO uses different verbs that correspond to different levels of urgency across its proposals and suggestions, noting that all of them are important. These are, in order of priority, "urges", "strongly encourages", "encourages" and "invites".

<sup>30</sup> [Scottish Human Rights Commission \(2023\) Submission to the Council of Europe Group of Experts on Action against Violence against Women and Domestic Violence \(GREVIO\) Parallel Report for the Baseline Report in Monitoring the United Kingdom](#)

<sup>31</sup> [Law Society of Scotland \(2022\) Proposed Domestic Abuse \(Prevention\) \(Scotland\) Bill](#)

<sup>32</sup> [Scottish Government \(2024\) Equally Safe Delivery Plan: Spring 2024 - Summer 2026](#)

<sup>33</sup> The ECtHR has considered notification requirements in respect of sex offenders in *Adamson v United Kingdom* (2003)

<sup>34</sup> [F & Anor, R \(on the application of\) v Secretary of State for the Home Department \[2010\] UKSC 17 \(21 April 2010\)](#). See also [A v Scottish Ministers \[2007\] CSOH 189](#);

<sup>35</sup> [HMIPS \(2024\) A Thematic Review of Prisoner Progression in Scottish Prisons](#)

<sup>36</sup> [Scottish Human Rights Commission \(2025\) A Human Rights Analysis of Orders for Lifelong Restriction: A Discussion Paper](#)