

Response ID ANON-HRK5-NGNX-N

Submitted to The independent strategic review of funding and commissioning of violence against women and girls services: call for evidence
Submitted on 2022-08-15 16:25:38

Questions

1 What do you consider to be the main function or purpose of services challenging violence against women and girls?

Please add your response in the text box.:

We submitted the following letter to the VAWG Advisory Group on 1st August pointing out that the redefinition of "woman" is unlawful, why it matters, and to ask for the public consultation to be withdrawn and reissued with a correction. This is the final day of the call for evidence and disappointingly we have yet to receive a substantive response.

We note that the information below the first question in the consultation states that violent and abusive behaviour is directed at women and girls precisely because they are women and girls. We are at a complete loss why then, 'woman' has been redefined from its clear and commonly understood definition to the imprecise and circular "anyone who defines themselves as a woman".[1]

This has two significant implications for any VAWG service. First, it discriminates by denying services to women who claim the Equality Act protected characteristic of gender reassignment but who are, nonetheless, still covered by the protected characteristic of sex, which means "a female of any age" when referring to women. Evidence shows that girls and young women are over-represented in referrals to gender-identity clinics,[2] some of whom will be engaging in a process of reassignment as a response to trauma from male violence or sexual assault and may therefore be in particular need of VAWG services. It logically follows there may also be a continuing need for such services, even after gender reassignment, as a consequence of high risk choices to use men's single sex spaces.

Secondly, it extends women's resources to any man who defines himself as a woman. Men who hold such identities may be protected by gender reassignment but their sex will always remain that defined in the Equality Act as "a male of any age". These men may not be best served by inclusion in women's services where professional expertise is tailored to the quite different experiences suffered by women. Additionally, many surveys conclude that not only do women highly value women-only services, but they will opt to exclude themselves from accessing much needed help if they are not available.[3] Please read the recent report from the Scottish Women's Convention[4] which, for the first time, allowed women to give their testimonies on self-exclusion, and recommends that "all organisations have to state clearly that they have women only spaces under the Equality Act 2010 single sex space provision" and that "proper support, counselling and trauma informed services are available to women at all times which can help them to deal with the violence they have faced at the hands of males".

We also note any recognition that men are the overwhelming perpetrators of violence against women is distinctly lacking in the consultation document and it should be immediately obvious that placing members of that sex-class in close proximity with female victims, either as service-users or employees, is problematic and likely to cause re-traumatisation.

Perhaps the Scottish Ministers have failed to widely circulate the information but, since it has clearly escaped your notice, we bring to your attention the Inner House Court of Session decision[5] of 18 February 2022 in *For Women Scotland v Lord Advocate and Scottish Ministers* which ruled it is outwith the Scottish Government's competence to redefine the Equality Act's protected characteristics, including the term 'woman'.

From Paragraph 36 of the court's judgment: "So far as the characteristic of sex is concerned, it would be open to the Scottish Parliament to make provision only for the inclusion of women, since a reference to a person who has a protected characteristic of sex is a reference either to a man or to a woman. For this purpose a man is a male of any age; and a woman is a female of any age. Section 11(b) indicates that when one speaks of individuals sharing the protected characteristic of sex, one is taken to be referring to one or other sex, either male or female. Thus an exception which allows the Scottish Parliament to take steps relating to the inclusion of women, as having a protected characteristic of sex, is limited to allowing provision to be made in respect of a "female of any age". Provisions in favour of women, in this context, by definition exclude those who are biologically male." (Emphasis added.)

When questioned by Lady Dorrian at the Inner House hearing on 22 March 2022, Ruth Crawford QC, acting on behalf of the Lord Advocate and the Scottish Ministers, accepted that the effect of the court's decision is that the term 'woman' must be governed by the Equality Act.

It is, therefore, untenable that this consultation seeks to introduce a redefinition of 'woman'. To do so clearly falls foul of established law and the consultation should be immediately revoked and reissued with a correction to ensure it is lawful. Ignoring the court's verdict would be both unwise, and detrimental to women who are in need of VAWG services.

References:

[1] <https://www.gov.scot/publications/independent-strategic-review-funding-commissioning-violence-against-women-girls-services-call-evidence/pages/4/>

[2] <https://www.transgendertrend.com/current-evidence/>

[3] Findings from the Women's National Commission survey on women-only services, 2010. 99% believe it is important to be able to access a women-only service.

https://web.archive.org/web/20110818090820/http://wnc.equalities.gov.uk/publications/cat_view/143-policy-documents/77-equalities.html

The impact of changes in commissioning and funding on women-only services, Equality and Human Rights Commission, 2012.

95% of users said the women-only aspect of the service was important, most would not access the service if it was not women-only.

<https://www.equalityhumanrights.com/sites/default/files/research-report-86-the-impact-of-changes-in-commissioning-and-funding-on-women-only-services.pdf>

Female Only Provision: A Women and Girls in Scotland Report, 2019.

A majority of women (80.1%) said that female victims of male violence should be able to access female-only survivor support services and refuges, and a majority (71%) said that if they had reason to use survivor support services or a refuge, they would not be comfortable if the service was inclusive of trans-identified males.

<https://wgscotland.org.uk/reports/>

#TERF/Bigot/Transphobe - We found the witch, burn her!, Shonagh Dillon, 2021

Findings show the silence of MVAW umbrella bodies resulted in frustration from some of their own members, the wider movement, and female victims and survivors.

<https://shonaghdillon.co.uk/research/7-conclusions-and-recommendations/>

[4] <https://www.scottishwomensconvention.org/files/single-sex-spaces-report.pdf>

[5] <https://www.scotcourts.gov.uk/docs/default-source/cos-general-docs/pdf-docs-for-opinions/2022csih4.pdf>

2 What services should be available for women experiencing any form of violence against women and girls?

Please add your response in the text box. :

3 What services should be available for children and young people experiencing any form of violence against women and girls?

Please add your response in the text box.:

4.1 What role should third sector organisations play in the provision of specialist services to women, children and young people experiencing violence against women and girls?

Please add your response in the text box.:

4.2 What role should local authorities play in the provision of services to women, children and young people experiencing violence against women and girls?

Please add your response in the text box. :

4.3 What role should the Scottish Government play in the provision of services to women, children and young people experiencing violence against women and girls?

Please add your response in the text box. :

4.4 What role should the NHS play in the provision of services for women, children and young people experiencing violence against women and girls?

Please add your response in the text box. :

4.5 What role should Police Scotland play in the provision of services for women, children and young people experiencing violence against women and girls?

Please add your response in the text box. :

4.6 Are there any other organisations that should provide services for women, children and young people experiencing violence against women and girls?

Please select your response from the drop down menu:

4.7 If yes, which organisations? Please explain your answer.:

5.1 Should access to services for those experiencing violence against women and girls be a right in law for any woman who needs them e.g. like child/adult protection?

Please select your response from the drop down menu:

5.2 Please give reasons for your answer.:

6.1 Should access to services for those experiencing violence against women and girls be a right in law for any child or young person who needs them e.g. like child/adult protection?

Please select your response from the drop down menu:

6.2 Please give reasons for your answers.:

7 How can barriers to services for women, children and young people experiencing violence against women and girls be removed across Scotland?

Please add your response in the text box.:

8 How can a consistent quality of services for women, children and young people experiencing violence against women and girls be ensured across Scotland?

Please add your response in the text box.:

9.1 Should services and providers for women, children and young people experiencing violence against women and girls and providers be based on need in their local area?

Please select your response from the drop down menu:

9.2 Please give reasons for your answer. :

10.1 Should services and providers for women, children and young people experiencing violence against women and girls be the same in every local area?

Please select your response from the drop down menu:

10.2 Please give reasons for your answer. :

11 What action should be taken to ensure unmet need is met and regional disparities are addressed?

Please give reasons for your answer. :

12 How can women, children and young people who have experienced violence against women and girls be meaningfully included in the co-design/evaluation of services?

Please add your response in the text box. :

13.1 For services receiving funding, what would be the optimum length of funding period to ensure they are able to continue to provide services effectively for women, children and young people experiencing violence against women and girls?

Please select your response from the drop down menu:

If other, how long?:

13.2 Please give reasons for your answer.:

14 Should funding application processes remain 'lighter touch' as was the case at the height of the COVID-19 pandemic, or revert to a higher level of scrutiny as previously?

Please give reasons for your answer. :

15 What is the single most important thing that can be done to reduce/mitigate the impact of violence against women and girls?

Please add your response in the text box. :

16 Is there anything else you would like to tell us?

Please add your response in the text box. :

About you

What is your name?

Name:

Trina Budge

What is your email address?

Email:

info@forwomen.scot

Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation:
For Women Scotland

Which sector is your organisation in?

please select your answer from the list:

If other, please specify:

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response only (without name)

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

I confirm that I have read the privacy policy and consent to the data I provide being used as set out in the policy.

I consent

Evaluation

Please help us improve our consultations by answering the questions below. (Responses to the evaluation will not be published.)

Matrix 1 - How satisfied were you with this consultation?:

Please enter comments here.:

Matrix 1 - How would you rate your satisfaction with using this platform (Citizen Space) to respond to this consultation?:

Please enter comments here.: