

CEDAW

CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

Follow-up to Concluding Observations
Engender, Scotland, 2021



1. Introduction

About this report

This report follows Engender's engagement with the eighth periodic report of the government of the United Kingdom on measures taken to give effect to the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The Committee requires the UK Government to report on their progress on four recommendations of particular concern (at paragraphs 13, 21 a) and b) and 25) concerning incorporation, the impact of the UK's departure from the EU ('Brexit') and an oversight mechanism for women's participation in CEDAW at UK level.¹

Since the Committee made its observations, however, Scotland like the rest of the world has faced the crisis of the Covid-19 pandemic. Non-pharmaceutical interventions (NPIs) to control the spread of coronavirus were introduced from March 2020 and, while increasingly relaxed, continue to affect the daily lives of women in Scotland. We have therefore included an overview of the impact of the pandemic and concerns around violence against women.

Devolution

Scotland's legislative competence is subject to a range of 'reserved' policy areas where responsibility rests with the UK Parliament, including immigration, employment, equalities and most social security policy. Scotland has its own legal system, education system and health service.

¹ Concluding observations on the eighth periodic report of United Kingdom of Great Britain and Northern Ireland.

The division of responsibility between UK and Scottish governing institutions can create some nuance in ascribing responsibility, especially when managing a crisis of the scale and complexity of the pandemic, which requires multiple policy levers. However, devolution should not be used to obfuscate responsibility for action.

In this report we focus on matters that fall within the Scottish Government's full or shared responsibility.

Intersectionality

The issues raised in this report are not experienced equally. Disabled women, women from Black and minority ethnic (BME) communities, lesbian, bisexual and trans women, younger and older women, migrant, refugee, asylum seeking and stateless women, low-income women, women with minority faiths, unpaid carers, care experienced girls and women, and women in rural areas all experience inequality in particular ways because of the intersection of identities and multiple discrimination.

Covid-19 has exacerbated deeply rooted inequalities, demonstrated starkly by the disproportionately high Covid-19 mortality and morbidity rates witnessed among BME populations. However, disaggregated data concerning marginalised groups in Scotland remains extremely limited and precludes a rigorous evidence base to inform policy outcomes for further marginalised groups of women.

2. Incorporating International Human Rights Law in Domestic Law for the Protection of Women's Human Rights

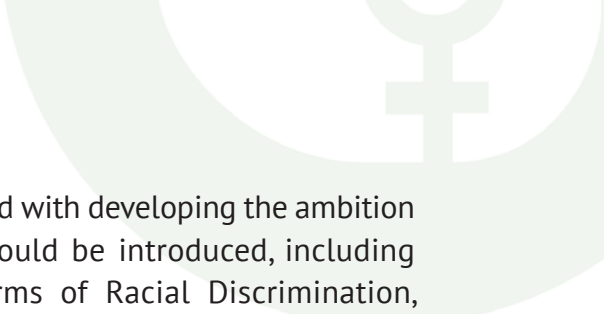
2.1 Proposals for a Scottish Human Rights Act

The previous Scottish Government (2016-2021) indicated a desire to situate Scotland as a world leader in human rights. In 2018, The First Minister's Advisory Group on Human Rights Leadership recommended that CEDAW fall within a proposed new Human Rights Act of the Scottish Parliament.² CEDAW incorporation was further recommended by bodies including the First Minister's National Advisory Council on Women and Girls³ and the Social Renewal Advisory Board.⁴

² First Minister's Advisory Group on Human Rights Leadership (2018) Recommendations for a new human rights framework to improve people's lives Report to the First Minister.

³ First Minister's National Advisory Council on Women and Girls (2018) First Report and Recommendations.

⁴ Social Renewal Advisory Board (2021) If Not Now, When?



A National Taskforce on Leadership in Human Rights charged with developing the ambition subsequently recommended that a single framework should be introduced, including CEDAW, the Convention on the Elimination of All Forms of Racial Discrimination, Incorporation of the Convention on the Rights of Persons with Disabilities,⁵ the International Covenant on Economic, Social and Cultural Rights as well as “A right of older people to a life of dignity and independence” and “Equality rights for LGBTI people”.

The previous Scottish Government confirmed its intention to take forward the recommendations and election commitments made by a majority of parties in the Scottish Parliament suggest there is likely to be cross-party support.

A single legislative framework will allow for the interrelated nature of rights across treaties to be made clear and signify an equality of rights protection which will benefit all women. However, as equal opportunities is reserved to the UK Parliament, technical consideration will need to be given to maximising the effectiveness of CEDAW’s approach to substantive equality of women.⁶ There is a clear role for individual women, civil society, women’s organisations and academics to inform the development of the new framework, including ensuring its capacity to respond to multiple and overlapping forms of discrimination and clear processes for monitoring interference with rights.

The Scottish Parliament has recently passed the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill. Given the close connection between women and children’s rights, incorporation of the UNCRC has potential to stimulate policy to advance the rights of girls and young women but also mothers and caregivers.⁷ The UK Government has recently challenged parts of the Bill as exceeding the competency of the Scottish Parliament.⁸

The UNCRC Bill takes what has been described as a ‘maximalist’⁹ approach to the protection of children’s rights. Should such an approach be sustained in further incorporation efforts, we would expect to see women’s rights fully integrated into all decision-making and service delivery, coupled with legal recourse in Scottish courts and tribunals, in addition to guidance to promote practical application of CEDAW.

⁵ See K McCall Smith (2020) Incorporating the United Nations Convention on the Rights of Disabled People (CRPD) in Scotland. Health and Social Care Alliance and Inclusion Scotland.

⁶ Nicole Busby and Muriel Robson (2018) How can women’s rights be better realised in Scotland? Engender.

⁷ UNICEF (2018) CRC and CEDAW: Making The Connection Between Women’s And Children’s Rights Facilitator’s Guide.

⁸ Office of the Secretary of State for Scotland (2021) UK Government writes to Scottish Government on UNCRC Bill. Available at: [gov.uk/government/news/uk-government-writes-to-scottish-government-on-uncrc-bill](https://www.gov.uk/government/news/uk-government-writes-to-scottish-government-on-uncrc-bill)

⁹ Scottish Government (2020) United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill, Policy Memorandum.

2.2 Equality and gender mainstreaming in Scotland

The Public Sector Equality Duty (PSED) is the UK's principal mainstreaming policy, and although equality is reserved to Westminster there are specific regulations in Scotland to support compliance with the PSED, including requirements to conduct and publish equality impact assessments, and to gather specified data.¹⁰ However, gender mainstreaming is undermined by a lack of skills training, prioritisation and capacity.¹¹

The commitment to a reform of the Scotland specific regulations has been much delayed, but the Government is now proceeding with a two-phase review,¹² as suggested by Scottish women's and equalities organisations.¹³ A report published in March 2021, 'Learning from mainstreaming equality during the COVID-19 pandemic' claims to be the first stage of this process. However it lacks detail and offers little insight into proposals that may be forthcoming in a second phase.¹⁴

The creation of a new Equality, Human Rights and Inclusion Directorate within Scottish Government is also welcome, however this must be adequately resourced and empowered to effect action. Additionally, the Equality and Fairer Scotland Budget Statement published alongside the national budget each year does not extend to a full gender budget analysis. This should be addressed in the context of the incorporation agenda.

2.3 Data

Compliance with CEDAW is undermined by a lack of intersectional gender-sensitive sex-disaggregated data. The Scottish Government's Gender Equality Index sets a baseline score for women's equality at 73/100 (with 100 being 'full equality'). This masks deeper inequality experienced by different groups of women and relies on selective and limited data.¹⁵ For example, the health indicator erroneously suggests there is near equality between women and men (99/100), despite Scottish Government action acknowledging significant disparities.¹⁶

¹⁰ Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012.

¹¹ Engender (2020) What Works for Women: Improving Gender Mainstreaming in Scotland.

¹² Scottish Government (2021) Review of the Operation of the Public Sector Equality Duty in Scotland: Learning from Mainstreaming Equality During the Covid-19 Pandemic.

¹³ Engender (2020) What Works for Women: Improving Gender Mainstreaming in Scotland.

¹⁴ Scottish Government (2021) Review of the Operation of the Public Sector Equality Duty in Scotland: Learning from Mainstreaming Equality during the Covid-19 Pandemic.

¹⁵ Scottish Government (2020) Scotland's Gender Equality Index 2020. Available at: data.gov.scot/genderindex/gender-equality-index-2020.html

¹⁶ For example, the creation of the Women's Health Plan, see Scottish Government (2021) The Women's Health Plan.

Recommendation: The Scottish Government should work collaboratively with the women’s sector and civil society to maximise the benefits of CEDAW incorporation.

Recommendation: Scottish specific duties should be underpinned by the Convention’s vision of substantive equality and create clear processes that enable public bodies to fulfil their legal obligations to women’s equality.

3. Assessing the Impact of Brexit on Women’s Human Rights and Adopting Accurate Measures

3.1 Scottish Government impact assessment

The Scottish Government has published an independent report on the Social and Equality Impacts of Brexit,¹⁷ amounting to available evidence relating to groups, including women, and the estimated impacts of various Brexit outcomes. This has not been updated since the Withdrawal Agreement Act was passed. The Scottish Government recently published an updated assessment of the impact of Brexit however this did not include analysis of impacts for women.¹⁸

It has become extremely difficult to separate out the impacts of Brexit and the pandemic on women’s equality, and to predict what the specific consequences of each will be. However, there is widespread concern that economic disruption will further negatively affect women. Public spending cuts have a significantly disproportionate impact on women. Women have less access to and agency over economic resources, are more likely to be clustered into underpaid and undervalued sectors, work part-time and be in precarious employment.¹⁹ All of this renders women more vulnerable to economic shocks than men.

3.2 Diminution of rights


The EU has been the source of many protections utilised by women, including those for part-time, temporary and insecure workers, pregnant women and mothers, and for other groups such as disabled people.²⁰ Refusal to incorporate the Charter of Fundamental Rights

¹⁷ Scottish Government (2020) Brexit: social and equality impacts. Available at gov.scot/publications/social-equality-impacts-brexit/pages/5/

¹⁸ The Scottish Government (2021) The Brexit Referendum 5 Years on – Summary of Impacts to Date.

¹⁹ Close the Gap (2018) Women, work and poverty in Scotland: What you need to know.

²⁰ Coleman v Attridge Law & Steve Law Case C-303/06. For further information see ‘Coleman v Attridge Law & Steve Law. The decision and its impact’ at The Equality and Human Rights Commission. Available at: equalityhumanrights.com/en/legal-casework/coleman-case



leaves open the potential for future erosion of equality and employment rights at UK level, including through future trade negotiations.

The Scottish Parliament refused legislative consent for the Withdrawal Agreement Act and there are ongoing disputes about undermining of the devolution rights, particularly where competencies coming back from the EU are placed under reserved laws.²¹ The Scottish Parliament passed legislation to ‘keep pace’ with EU law in the UK Withdrawal from the European Union (Continuity) (Scotland) Act.²² This legislation allows Scottish Ministers to make laws to replicate the content of new EU law but cannot allow for amendment of certain statutes such as the Scotland Act or the Equality Act 2010.

3.3 Funding

The availability of EU Funding programmes has enabled Scottish organisations from a range of sectors to undertake projects that make a real difference to women’s lives, especially funds which have benefitted women in rural communities or areas of social deprivation. European Structural Investment Funds (ESIF) have also been used to develop employability support and skills training for disabled women.²³

The refusal to devolve replacement funds has denied an opportunity to align spending decisions with devolved priorities.²⁴ Replacements²⁵ are orientated towards traditional infrastructure investment²⁶ at the expense of elements such as social cohesion that were integral to EU funds. While UK funds demand that ‘due regard’ is given to the PSED, this falls far below the requirements in ESIF and is subject to wider concerns about the UK Government’s commitment to gender mainstreaming.

3.4 The social care sector

Workers from the EU are a disproportionately high proportion of the social care workforce in Scotland, accounting for 3% of total employment in this sector. The sector already faced a recruitment crisis before Brexit and the pandemic; in 2017 more than one in three

²¹ Scottish Government (2021) After Brexit: The UK Internal Market Act and devolution.

²² An earlier bill – the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill 2018 – was successfully challenged by the UK Government in 2019 as overstepping the devolved powers of the Scottish Parliament.

²³ Under the Social Fund element of the EU Structural and Investment Funds, disabled people’s organisations in the UK have had the opportunity to apply for significant amounts of money for projects furthering disability equality and inclusion. According to the Academic Network of European Disability Experts, 19% of EU Structural Funds grants are spent on projects that directly support disabled people.

²⁴ National Assembly for Wales Finance Committee, Preparations for replacing EU funding for Wales. Available at: assembly.wales/laid%20documents/cr-ld11748/cr-ld11748-e.pdf

²⁵ House of Commons Library (2021) The UK Shared Prosperity Fund. Available at: commonslibrary.parliament.uk/research-briefings/cbp-8527/

²⁶ UK Government (2021) UK Community Renewal Fund: prospectus. Available at: gov.uk/government/publications/uk-community-renewal-fund-prospectus

services had unfilled vacancies.²⁷ However, care workers are not defined as a shortage occupation²⁸ and must fulfil points-based immigration requirements that mean around 60% of roles in the sector are out of reach for migrant workers.²⁹

If the sector cannot recruit, care will inevitably be redistributed back onto unpaid women. Meanwhile workers, 83% of which are women, will see working conditions deteriorate even further. Disabled women will experience even greater difficulties in securing the support that they need.³⁰ The Scottish Government has recently launched a consultation on a new National Care Service³¹ which takes forward recommendations from a 2020 Independent Review of Adult Social Care³². However, there has been no specific focus on women or gender.

Recommendation: the Scottish Government should develop a social care workforce strategy to reposition care as highly-skilled and appropriately remunerated work

Recommendation: The Scottish Government should set out how its proposals to ‘keep pace’ with EU law in devolved areas will impact women.

4. CEDAW’s Recommendation to Establish a National Machinery for the Advancement of Women

We are deeply cautious about the UK Government’s capacity and willingness to engage with women’s organisations in devolved nations. However, it is vital that processes that claim to be participatory properly understand and reflect devolved policy areas and experiences where many of the levers needed to implement CEDAW rest.

²⁷ Care Inspectorate (2019) Staff vacancies in care services 2017. Available at: careinspectorate.com/index.php/news/4767-staff-vacancies-in-care-services-2017

²⁸ The UK Government has introduced a new visa for ‘skilled’ health and social care workers but most social care workers are not eligible.

²⁹ Expert Advisory Group on Migration and Population (2020) UK Immigration Policy After Leaving the EU Impacts on Scotland’s Economy, Population and Society.

³⁰ The Health and Social Care Alliance (2020) My Support My Choice - Women’s Experiences of Self-directed Support and Social Care in Scotland.

³¹ Scottish Government (2021) A National Care Service for Scotland: consultation. Available at: consult.gov.scot/health-and-social-care/a-national-care-service-for-scotland/

³² Derek Feeley (2021) Adult social care: independent review. Scottish Government. Available at: gov.scot/groups/independent-review-of-adult-social-care

In Scotland, an Advisory Council on Women and Girls has been established under the auspices of the First Minister to make recommendations to advance women's equality. However this body remains temporary, has no formal role in policy processes and does not create specific roles for women's organisations.³³ The Council has made a number of recommendations to better integrate gender into the policy and parliamentary process in a more permanent way, which the Scottish Government is currently exploring.³⁴

Recommendation: The Scottish Government should implement the full recommendations from the National Advisory Council on Women and Girls.

5. The Impacts of Covid-19

5.1 Health

The Scottish Government and public bodies have been slow to identify and respond to inequalities in Covid-related health outcomes.³⁵ Deaths amongst the South Asian ethnic group have been almost twice as likely to involve Covid-19 as deaths in the white ethnic group, but data for other ethnic groups in Scotland is weak.³⁶ Disabled women whose daily activities were limited a lot were 2.4 times as likely to die with Covid-19 compared to non-disabled women.³⁷ The rate of premature mortality was 17 times higher in girls with learning/intellectual disabilities compared to boys generally.

Throughout the pandemic women are more likely to have shielded³⁹ as well as to be impacted by its indirect consequences⁴⁰ due to greater provision of unpaid care to elderly

³³ First Minister's National Advisory Council on Women and Girls Terms of Reference. Available at: onescotland.org/wp-content/uploads/2018/05/NACWG-Terms-of-Reference.pdf

³⁴ Scottish Government (2020) National Advisory Council on Women and Girls (NACWG) 2019 - report and recommendations: SG response. Available at: gov.scot/publications/scottish-governments-response-first-ministers-national-advisory-council-women-girls-nacwg-2019-report-recommendations/pages/11/

³⁵ Coalition for Racial Equality and Rights (2020) COVID-19 and ethnicity in Scotland: Where's the data?

³⁶ Scottish Government (2020) The Impacts of COVID-19 on Equality in Scotland.

³⁷ Scottish Government (2021) Coronavirus (COVID-19) - disabled people: health, social and economic harms - research report. Available at: gov.scot/publications/covid-19-disabled-people-scotland-health-social-economic-harms/pages/2/

³⁸ Together (Scottish Alliance for Children's rights) (2020) Civil society report to inform the UN Committee on the Rights of the Child's List of Issues Prior to Reporting.

³⁹ People who are clinically extremely vulnerable are included the shielded patient list. Patients who are advised to shield have experienced more stringent restrictions on movement and socialisation, and as a result experienced longer and more intense isolation in addition to increased anxiety surrounding the virus and their underlying condition.

⁴⁰ Public Health Scotland (2021) COVID-19 Shielding Programme (Scotland) rapid evaluation. Available at: publichealthscotland.scot/media/2949/covid-19-shielding-programme-scotland-rapid-evaluation-full-report.pdf

and disabled people⁴¹. The speed of removing NPIs and increasing risks of exposure for those previously shielding have created risk of further inequalities and exclusion for some groups of women and demonstrate the lack of attention to equality concerns.⁴²

Women are more likely than men to have reported a decline in overall physical and mental health.⁴³ Many reported that they found accessing pregnancy and maternity services difficult and anxiety inducing,⁴⁴ in part due to restrictions on partner support,⁴⁵ contrary to WHO guidance.⁴⁶ Regulations were introduced to ensure remote access to medical abortion as a temporary measure,⁴⁷ although equality organisations continue call for the service to be made permanent.⁴⁸

The Scottish Government is responsible for distribution of vaccines in Scotland and has made some variations in delivery, including reprioritising unpaid carers.⁴⁹ However the mooted introduction of 'Covid Status Certification' has the potential to exacerbate inequalities. Younger women may be excluded, potentially even if vaccinated due to greater provision of care for children who remain ineligible for vaccines. This may further entrench gendered distribution of care, employment, and public space.

Health impacts relating to Covid-19 are likely to be long term (including 'long-covid') and intensify pre-existing health inequalities. One study found that women under 50 who had been hospitalised were five times less likely to report feeling fully recovered three months

⁴¹ Health and Social Care Alliance (2020) Health and Social Care Alliance Scotland (the ALLIANCE) Response to the Scottish Government's question set for stakeholder organisations on shielding – next steps. Available at: alliance-scotland.org.uk/wp-content/uploads/2020/06/ALLIANCE-Response-Shielding-next-steps-question-set-for-stakeholder-organisations-12.06.2020.pdf

⁴² Lynn Williams et al. 'Open letter to Scottish Government over moves to relax Covid restrictions.' C-Change. Available at:

c-change.org.uk/open-letter-to-scottish-government-over-moves-to-relax-covid-restrictions/

⁴³ Health Improvement Scotland (2021) Seventh Citizens' Panel Report. Available at: hisengage.scot/informing-policy/citizens-panel/seventh-panel-report/

⁴⁴ Health and Social Care Alliance (2021) Health, Wellbeing and the COVID-19 Pandemic: Scottish Experiences and Priorities for the Future.

⁴⁵ See Alexandra Topping and Pamela Duncan (2020) 'Only 23% of NHS trusts letting birth partners stay for whole of labour'. The Guardian. Current Scottish Government guidance (from May 2021) categorise birth partners as an essential visitor who is permitted at all times. See visiting in maternity and neonatal settings during covid 19 pandemic from 13 may 2021 – minimum standards. Available at: gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2020/06/coronavirus-covid-19-hospital-visiting-guidance/documents/coronavirus-covid-19-maternity-and-neonatal-settings-visiting-guidance

⁴⁶ World Health Organisation (2020) 'Every woman's right to a companion of choice during childbirth'.

⁴⁷ Scottish Government (2020) Abortion – Covid-19 – approval for mifepristone to be taken at home and other contingency measures. Available at: [sehd.scot.nhs.uk/cmo/CMO\(2020\)09.pdf](https://sehd.scot.nhs.uk/cmo/CMO(2020)09.pdf)

⁴⁸ Sara Paciaroni (2021) Telemedical abortion: campaigners call for remote care to continue. The Herald.

⁴⁹ NHS Inform (2021) Who will be offered the coronavirus vaccine. Available at: nhsinform.scot/covid-19-vaccine/invitations-and-appointments/who-will-be-offered-the-coronavirus-vaccine

after the onset of the infection.⁵⁰ We are not aware of any work being carried out regarding lasting Covid effects for women in Scotland.

The Scottish Government has recently published a Women's Health Plan⁵¹ to drive improvements in outcomes for women. However, it excludes extremely important and relevant issues such as chronic pain and mental health. Public engagement around the plan⁵² has elucidated urgent need to improve women's interactions with healthcare professionals and to dismantle sexism, racism and other structural discrimination within healthcare.

5.2. Gender mainstreaming in the crisis response

The crisis has reinforced the limits of existing gender mainstreaming duties on Scottish public sector actors. Impact assessments were haphazardly produced, minimal or drafted in retrospect.⁵³ The Coronavirus (Scotland) Act requires the Scottish Government and its agencies to have due regard to opportunities to advance equality and eliminate discrimination when using emergency powers, however there is no evidence that this provision has been utilised.

Two standalone structures were established to consider recovery – the Advisory Group on Economic Recovery⁵⁴ and the Social Renewal Advisory Board.⁵⁵ Gender was not systematically integrated into either process however individual recommendations such as a focus on the economic value of care, human rights incorporation and the expansion of funded childcare can be maximised to the benefit of women.

5.3 Increased reproductive labour

Closure of schools has led to a marked increase in childcare and domestic work. This is not distributed equally; research shows that over the first lockdowns in the UK, US and Germany, regardless of whether they were also doing paid work, women spent six hours providing childcare and home-schooling every working day while fathers provided around four.⁵⁶ Meanwhile, Health and Social Care Partnerships have increased their eligibility

⁵⁰ University of Glasgow (2021) Women Under 50 Had Worse Long-Term Outcomes After Hospitalisation With Covid-19. Available at: gla.ac.uk/news/headline_782580_en.html

⁵¹ Scottish Government (2021) The Women's Health Plan.

⁵² Health and Social Care Alliance Scotland (2021) Hearing the voices of women of Scotland.

⁵³ Engender (2020) Submission of evidence to the Equality and Human Rights inquiry on the impact of COVID-19 pandemic on equalities and human rights. Available at: engender.org.uk/content/publications/Engender-submission-of-evidence-EHRIC-Inequalities-and-Covid19.pdf

⁵⁴ Scottish Government (2020) Advisory Group on Economic Recovery.

⁵⁵ Scottish Government (2020) Social Renewal Advisory Board.

⁵⁶ A. Adams-Prassl, T. Boneva, M. Golin and C. Rauh, (2020) Inequality in the Impact of the Coronavirus Shock: Evidence from Real Time Surveys.

criteria for social care, reducing access.⁵⁷ Survey data published for Carers Week 2020 suggests the number of people providing unpaid care in Scotland has increased to 1.1 million, around 60% of which are women.⁵⁸

A planned increase of funded childcare to 1140 hours was paused until August 2021⁵⁹ creating significant uncertainty around funding and further disrupting parents' plans for paid work. Reduced income across the sector risks increased fees, which will make childcare even more unaffordable, or reduced services, additionally risking the jobs of an overwhelmingly female workforce. While the furlough scheme belatedly enabled employers to support employee's caring roles, 71% of working mothers have been refused it.⁶⁰

5.4 Labour Market

Female-dominated sectors including retail and hospitality that have been most significantly affected by closures and disruption. Due to occupational segregation, women are overrepresented in certain sectors which are undervalued and low-paid.⁶¹ Young women and BME women's employment is especially concentrated in these areas. While the government furlough scheme⁶² has successfully prevented high levels of redundancies (women are more likely to be furloughed and for longer periods of time),⁶³ it is too early to say how its removal will impact on women's employment. There are additional concerns over how furlough has been used as 21% of BME women report feeling that they were unfairly selected compared to 1% of white women.⁶⁴

The widespread introduction of flexible working and working from home particularly benefits disabled women and women who provide care and childcare. However flexible working alone is not enough to respond to how women are situated in the economy. Scotland's gender pay gap remains stubbornly high at 10.0%⁶⁵ and now one in four women are considering downshifting their career or leaving the workforce entirely due to the pandemic.⁶⁶

⁵⁷ The ALLIANCE (2020) Response to the Equalities and Human Rights Committee inquiry on the impact of Covid-19 pandemic on equalities and human rights.

⁵⁸ Carers UK (2020) Carers Week 2020 Research Report.

⁵⁹ Scottish Government (2020) Early Learning and Childcare expansion.

⁶⁰ TUC (2021) Working Mums Paying the Price. London.

⁶¹ Close the Gap (2020) Disproportionate disruption: The impact of COVID-19 on women's labour market equality.

⁶² See more at UK Government 'Claim for wages through the Coronavirus Job Retention Scheme'. Available at: gov.uk/guidance/claim-for-wages-through-the-coronavirus-job-retention-scheme

⁶³ Close the Gap (2021) One Year On: How COVID-19 is Impacting on Women's Employment in Scotland.

⁶⁴ Engender and Close the Gap (2021) Briefing on the Impact of Covid-19 on Women With Childcare Responsibilities in Scotland.

⁶⁵ Close the Gap (2021) Gender Pay Gap Statistics. Available at: closethegap.org.uk/content/resources/Working-Paper-22---Gender-Pay-Gap-Statistics-2021.pdf

⁶⁶ Women in the Workplace (2020), McKinsey and LeanIn.Org. Available at: mckinsey.com/featured-insights/diversity-and-inclusion/women-in-the-workplace

Women who own businesses have also frequently been excluded from grant support largely founded on structural economic approaches which do not align to women-owned businesses. Three-quarters of women business owners found managing their businesses stressful during the pandemic and 55% would not recommend starting a business in their sector in 2021.⁶⁷ Employer women-led businesses have declined from 20.5% of the business base to just 14% despite increases in the proportion of new businesses being started by women.⁶⁸

Recommendation: A Scotland-specific inquiry should be conducted to ensure that the failure to adequately consider women's lives and needs is accounted for across all public services and policy.

6. Violence Against Women and Girls

6.1 Increasing scale

Men's violence against women and girls remains a human rights violation experienced at epidemic levels in Scotland and recent crisis have highlighted the structural inequalities that enable violence against women.⁶⁹ The Committee has positively noted Scotland's Equally Safe Strategy on Violence Against Women and Girls, which makes explicit the causal relationship between women's inequality and violence against women.⁷⁰ Over the pandemic, however, there has been limited attention to prevention and strategy commitments have been missed or erroneously claimed to have been completed.

Sustained periods of restrictions exacerbate women's experiences of domestic abuse, effectively isolating them with perpetrators. Referral rates across different support and advocacy organisations fluctuated significantly with scaling demand as lockdown ended.⁷¹ Scottish Women's Aid services have reported difficulties in securing 'key worker status'⁷²

⁶⁷ The Alison Rose Review of Female Entrepreneurship (2021) The Story Continues.

⁶⁸ Scottish Government (2018) Small Business Survey Scotland. Available at: gov.scot/publications/small-business-survey-scotland-2019/

⁶⁹ UN (2020) Violence against women, its causes and consequences: note by the Secretary-General. Available at: undocs.org/pdf?symbol=en/A/75/144

⁷⁰ Concluding observations 2019

⁷¹ Scottish Government (2020) Coronavirus (COVID-19): domestic abuse and other forms of violence against women and girls during Phases 1, 2 and 3 of Scotland's route map (22 May to 11 August 2020). Available at: gov.scot/binaries/content/documents/govscot/publications/research-and-analysis/2020/09/coronavirus-covid-19-domestic-abuse-forms-violence-against-women-girls-during-phases-1-2-3-scotlands-route-map-22-11-august-2020

⁷² Several definitions of 'key worker' exist and named occupations have been expanded over the pandemic. For example, key workers are defined in Department of Health and Social Care guidance on testing eligibility.

and demand for services as placing pressure on the capacity to deliver support to victim-survivors.⁷³ Although Scottish Government regulations included seeking support for violence against women as a permitted reason to leave home,⁷⁴ this has not always been clear to agencies and the public. Women who sell sex have been identified as a priority group for support, with emergency funding provided via the Encompass Network to address some the financial needs of women⁷⁵ and short-term working group has been set up to look at how women's needs could be addressed.

Increased discrimination and abuse of Black and Asian⁷⁶ women and girls and disabled women and girls has been reported.⁷⁷ It is recognised that disabled women are at high risk of experiencing men's violence,⁷⁸ with lockdown exacerbating the enabling environment for perpetrators.

Worrying rates of online abuse against women and girls have been observed due to increased time online for social and educational purposes.⁷⁹ While most reported abuse appears to be peer-to-peer, children's rights campaigners have warned of an increase in online sexual crimes perpetrated by adult men. Survey data has shown a stark increase in online abuse of women during the pandemic, with 75% of reports perpetrated by an unknown or anonymous online user.⁸⁰ There are concerning reports of the use of ICT to perpetrate abuse in professional contexts.⁸¹

6.2 Funding

The Scottish Government has made additional funding available for national and local services over the course of the pandemic⁸² however existing funding is insufficient to provide a comprehensive service to all who need it. In recent years Women's Aid groups

⁷³ Scottish Women's Aid (2020) Crisis and Resilience: the impact of a global pandemic on domestic abuse survivors and service providers in Scotland.

⁷⁴ The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 (revoked). Available at: legislation.gov.uk/ssi/2020/344/schedule/7A/paragraph/3

⁷⁵ Support for women involved in prostitution. The Scottish Government. Available at: gov.scot/news/support-for-women-involved-in-prostitution/

⁷⁶ Glitch and End Violence Against Women (2020) The Ripple Effect Covid-19 and The Epidemic of Online Abuse.

⁷⁷ Together (Scottish Alliance for Children's rights) (2020) Civil society report to inform the UN Committee on the Rights of the Child's List of Issues Prior to Reporting.

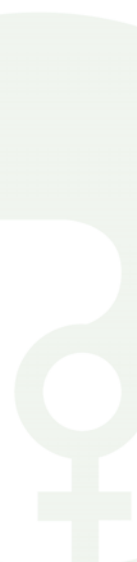
⁷⁸ Wise Women (2015) Daisy project: violence against disabled women survey. Available at: womenssupportproject.co.uk/userfiles/Daisy%20Project%20Report.pdf

⁷⁹ Together (Scottish Alliance for Children's rights) (2020) Civil society report to inform the UN Committee on the Rights of the Child's List of Issues Prior to Reporting.

⁸⁰ Glitch and End Violence Against Women (2020) The Ripple Effect Covid-19 and The Epidemic of Online Abuse.

⁸¹ Rights of Women (2021) Rights of Women survey reveals online sexual harassment has increased, as women continue to suffer sexual harassment whilst working through the Covid-19 pandemic.

⁸² Scottish Government (2020) Support for victims of domestic violence during COVID-19 outbreak. Available at gov.scot/news/support-for-victims-of-domestic-violence-during-covid-19-outbreak/



have therefore been increasingly reliant on grants to supplement inadequate local and national government funding. Emergency funds are not a substitute for a sustainable funding model for specialist domestic abuse services.

6.3 Access to Justice

As a result of the first national lockdown Scottish Courts were unable to conduct jury trials, including those for rape, sexual assault and domestic abuse. The Scottish Government initially indicated that it would look to introduce judge-only trials for sexual assault and rape cases, however, this was quickly reversed. The Scottish Courts and Tribunal Service recommenced jury trials in October 2020⁸³ with 'remote jury centres'.⁸⁴ Although jury trials were not prohibited in the 2021 lockdown, they were reduced by 75%.⁸⁵

Even prior to this disruption, victim-survivors in Scotland faced procedural delays of up to two years, with the Scottish Courts and Tribunal Service now having an estimated backlog of nearly 50,000 trials because of the pandemic.⁸⁶ Delays exacerbate the stress for victim survivors, impact on their ability to give evidence,⁸⁷ and reduce already low levels of confidence in the criminal justice system in circumstances where victim-survivors already endure serious barriers to justice and safety.⁸⁸

6.4 Law reform

The Scottish Parliament has now passed the Domestic Abuse (Protection) (Scotland) Act, which will enable perpetrators to be banned from homes and from contacting a person at risk for a specified period. In Scotland, domestic abuse is the most common reason for a homeless application by women.⁸⁹ Despite some concern that the law enables orders to be imposed against the wishes of the protected person, their introduction is welcome.

⁸³ See SCTS News (2020) 'Preparations to Restart Sheriff and Jury Trials.' Available at: scotcourts.gov.uk/about-the-scottish-court-service/scs-news/2020/10/27/preparations-to-restart-sheriff-and-jury-trials

⁸⁴ Lexis Nexis (2020) Coronavirus (COVID-19) 'Scotland's first cinema remote jury trial taking place.' Available at: [lexisnexis.co.uk/blog/covid-19/coronavirus-\(covid-19\)-scotland's-first-cinema-remote-jury-trial-taking-place](https://lexisnexis.co.uk/blog/covid-19/coronavirus-(covid-19)-scotland's-first-cinema-remote-jury-trial-taking-place)

⁸⁵ Scottish Government (2021) Changes to criminal court business. Available at: gov.scot/news/changes-to-criminal-court-business/

⁸⁶ Scottish Government (2021) Coronavirus (COVID-19): Justice Analytical Services data report - June 2021. Available at: gov.scot/publications/coronavirus-covid-19-justice-analytical-services-data-report-june-2021/documents/

⁸⁷ Rape Crisis Scotland (2020) Briefing on Coronavirus (Scotland) Bill Provisions.

⁸⁸ M. Burman (2009) 'Evidencing sexual assault: Women in the witness box' Journal of Community and Criminal Justice. Available at: rapecrisisScotland.org.uk/publications/Evidencing-Sexual-AssaultBurman.pdf

⁸⁹ Scottish Women's Aid (2020) Improving housing outcomes for women and children experiencing domestic abuse: Scottish Government working group report. Available at: womensaid.scot/wp-content/uploads/2020/12/Improving-Housing-Outcomes-for-Women-and-Children-Experiencing-Domestic-Abuse-Report.pdf

However, while the UK continues to recognise European Domestic Protection Orders post-Brexit, the EU has not made reciprocal arrangements for women traveling outwith Scotland. The Lord Justice Clerk recently conducted a review of management of sexual offence cases. The review made a number of key recommendations to improve the approach to sexual crime within the Scottish criminal justice process. Despite a commitment to consider the recommendations, the Scottish Government has not yet indicated whether the recommendations will be implemented in full, or given a timescale for implementation. The Scottish Government has also established a Working Group on Misogyny and Criminal Justice to explore gaps in the law to protect women from egregious misogyny and ensure the capacity of the justice system to respond appropriately to gendered abuse and harassment.⁹⁰

Recommendation: The Scottish Government should work with violence against women services to ensure a sustainable funding model, rooted in legislation, to ensure all women have access to the support that they need.



⁹⁰ Scottish Government (2021) Misogyny and Criminal Justice in Scotland Working Group. Available at gov.scot/groups/misogyny-and-criminal-justice-in-scotland-working-group/

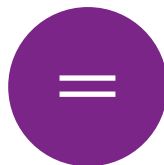
This report was produced by Engender with contributions and endorsement from:

- Zero Tolerance
- The Scottish Women's Convention
- Equality Network
- Scottish Trans Alliance
- Together (Scottish Alliance for Children's Rights)
- Equate Scotland
- Inclusion Scotland
- Rape Crisis Scotland
- Close the Gap
- LGBT Youth Scotland
- The Health and Social Care Alliance Scotland (the ALLIANCE)
- Scottish Council for Voluntary Organisations (SCVO)
- Scottish Women's Aid
- Women 50:50
- One Parent Families Scotland
- Coalition for Racial Equality and Rights (CRER)
- Women's Enterprise Scotland
- Council of Ethnic Minority Voluntary Organisations (CEMVO)
- Women's Support Project
- Poverty Alliance

Engender
10 Old Tolbooth Wynd
Edinburgh
EH8 8EQ
0131 558 9596

info@engender.org.uk
www.engender.org.uk

Twitter: [@EngenderScot](https://twitter.com/EngenderScot)
Facebook: [/engender](https://www.facebook.com/engender)



ENGENDER

Published September 2021