

# CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN SHADOW REPORT

**Eighth periodic report of the government of the United Kingdom on measures taken to give effect to CEDAW.**

**Engender, Scotland • 2018**

## Introduction

### Austerity

Since the UK was examined by the Committee in 2013, the UK Government has continued to implement a wide range of austerity measures that are diminishing women's rights. Gender mainstreaming throughout the public sector, and active promotion of women's rights is urgently needed. Instead, public funding across areas that have a crucial impact on women's lives has been decimated. Women are shouldering cuts to social security that are directly causing poverty, homelessness, physical insecurity, ill-health and fatality.<sup>1</sup> Cuts to vital public services are seeing women lose secure employment and take on additional unpaid care. Women are being placed at risk of violence by government policy that erodes their financial and bodily autonomy and safeguards against harm.

All of this is in addition to existing, entrenched inequalities that systematically breach women's economic, social and cultural rights. The UK's forthcoming exit from the European Union ('Brexit') is set to jeopardise the rights of women and girls yet further.

### Intersectionality

This ongoing and emerging breach of women's rights is experienced more extensively and more emphatically by women who face multiple inequalities in the UK. Disabled women, women from black and minority ethnic (BME) communities, LGBT 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,<sup>2</sup> and women in rural areas all experience gender inequality in particular ways that is not fundamentally



<sup>1</sup> British Medical Journal (2017) Effects of health and social care spending constraints on mortality in England: a time trend analysis; Around 120,000 excess deaths have occurred from 2010 to 2017

<sup>2</sup> Women and girls who have spent time in foster, residential or kinship care

taken into consideration by policymakers in Scotland and the UK. We highlight particularly urgent issues for groups of marginalised women at the present time in Scotland throughout this report.

## Devolution

Scotland is part of the UK and subject to a range of ‘reserved’ policy areas that are set by the UK Parliament. These include immigration, employment, equalities and electoral law and significant aspects of the social security portfolio including pensions.

However, Scotland has distinct legal, education systems and a divergent public sector architecture. Since the recreation of the Scottish Parliament in 1999, it has set ‘devolved’ policy on a range of areas that are at the heart of women’s rights and the UK’s obligations under CEDAW. For almost twenty years, the Scottish Parliament has controlled and been accountable for criminal and civil justice, early years, economic development, education, health, housing, and violence against women policy, amongst others. Further powers were transferred to the Scottish Parliament with Scotland Act 2016, including abortion law and aspects of social security.

This report is focussed on Scottish Government’s responsibilities regarding women’s rights and equality. Given the interdependency of policy areas that relate to women’s rights, the division of responsibility between UK and Scottish jurisdictions can be complex. However, the issues we raise here are squarely within the remit of Scottish Government.

This is a collaborative report that draws on evidence submitted to Engender by 22 women’s, equalities and human rights organisations across Scotland.

## Article 2: Discrimination

### 2.1 Incorporating CEDAW into Scots Law

Scottish Government is accountable for human rights protection in relation to devolved policy areas. The Scottish National Action Plan on Human Rights (SNAP) acts as a focus for human rights delivery by Scottish Government, and by public bodies across Scotland. It is linked to international instruments that provide for women’s rights, including CEDAW. However, progressive realisation of these rights could be accelerated if they were incorporated into Scots Law.

This is particularly pressing as anti-discrimination and equality-enabling regulation is bound up in the UK’s membership of the European Union. EU laws are underpinned by the principles of equality and non-discrimination, and promote and protect women’s rights in areas such as equal pay, part-time work and maternity rights. The absence of the EU legal

framework, coupled by lack of clarity from the UK Government on which rights will be replicate in domestic legislation following 'Brexit', means that women's and girls' rights in Scotland are in danger.

### Questions

- What consideration has Scottish Government given to incorporating CEDAW into Scots law?
- How will Scottish Government ensure that women's statutory rights are protected to the fullest extent of its powers, post-Brexit?

## 2.2 Public sector equality duty

The public sector equality duty (PSED) forms part of the Equality Act 2010 and is the key lever for gender mainstreaming in policymaking in Great Britain. In Scotland, PSED places obligations on public authorities to apply equality impact assessment to policy development, publish information on the gender pay gap and occupational segregation, and set outcomes on equality issues.

However, equality impact assessment is weakly implemented by civil servants with poor gender competence, and the other requirements have elicited bloated reporting, with 87% of public bodies assessed as having made 'poor or no use of employee data' in 2017.<sup>3</sup> Gender equality outcomes are being lost within performative bureaucracy and compliance with the duty is worsening. The shape of the public sector equality duty itself needs to be revisited.<sup>4</sup>

### Questions

- How does the Scottish Government intend to recast the Scottish specific duties that underpin PSED, following its 2018 review?
- How will Scottish Government increase the capacity of public bodies to deliver their obligations under PSED?

<sup>3</sup> Close the Gap (forthcoming) Assessment of public sector employers' compliance with the public sector equality duty

<sup>4</sup> Equality and Human Rights Commission (2017) Public Authorities' performance in meeting the Scottish Specific Equality Duties, 2017

## 2.3 Data

Scottish Governments' obligations under CEDAW are fundamentally undermined by a lack of gender-disaggregated data across crucial areas for women's rights. This has compromised our own work in recent years with regard to health, housing, prejudice-based bullying in schools, women's participation in politics, and disabled women's reproductive and parental rights. Analysis of women's poverty in Scotland is based on household data, which masks the extent of women's financial inequality and links between rising maternal and child poverty.

Intersectional data that illustrates the deeper inequality and discrimination experienced by BME, disabled, LGBT, rural, refugee, asylum-seeking and stateless women, young women and girls, and older women is exceptionally rare. Evidence submitted to Engender for this report<sup>5</sup> specifically highlights data barriers regarding violence against BME women, disabled and BME women's employment, and refugee and asylum-seeking women's access to healthcare. Intersectional data collection must be accompanied by targeted efforts to increase the diversity of women's voices in policymaking. Gendered data issues regarding Career Information, Advice and Guidance, and gendered violence in Scottish schools were also raised in our call for evidence. All of this illustrates the extent and breadth of a systemic flaw in policy development in Scotland.

### Questions

- How will Scottish Government increase the capacity of public bodies to deliver their obligations under PSED?

## Article 3: Equality

### 3.1 Violence against women and girls

#### 3.1.1 Homelessness

Domestic abuse is the third most common reason for a homeless application in Scotland.<sup>6</sup> Women and children spend months in refuges and unsuitable temporary accommodation, which compounds the trauma of domestic abuse and impacts enormously on their health and wellbeing.<sup>7</sup>

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<sup>5</sup> CEDAW shadow report call for evidence

<sup>6</sup> Scottish Government (2017) Homelessness in Scotland: 2016-17

<sup>7</sup> Fife Domestic and Sexual Abuse Partnership (2015) Change, Justice, Fairness

Scotland requires legislation to ensure immediate protection for victim-survivors of domestic abuse, to prevent women from being forced to leave their homes. Existing protective civil orders enable some women to exclude abusive partners from the home. However, these require women to actively seek and pay for protection in a context where civil legal aid is increasingly difficult to access.<sup>8</sup>

Young women and girls make more homeless applications than young men and boys in Scotland. Since records began in 2002, 16 and 17-year-old girls have consistently filed around 60% of applications for their age group,<sup>9</sup> and 18 – 24-year-old women are overrepresented in figures every single year. This is partly explained by the higher rates of domestic and child abuse experienced by young women.<sup>10</sup> Homelessness places them in danger of further abuse and other harm.

### Questions

- Will Scottish Government legislate to ensure that women victimised by men's domestic abuse are made safe without having to leave their own homes?
- How will Scottish Government address high rates of homelessness amongst older girls and young women?

### 3.1.2 Funding for specialist rape and sexual violence services

Reported sexual crimes are at a record high in Scotland, and rape and attempted rape increased by 66% between 2010/11 and 2016/17.<sup>11</sup> At the same time, Scottish Government's Rape Crisis Specific Fund, which provides core funding to support and advocacy services, has been frozen for ten years. In parallel, the need for support has risen steeply over the last five years, with rape crisis centres experiencing increases in demand of up to 160%.<sup>12</sup>

### Questions

- How will Scottish Government develop a sustainable funding model to ensure that rape and sexual assault services meet rising demand?

<sup>8</sup> Scottish Women's Aid (2017) Written evidence to the Justice Committee call for evidence on the Domestic Abuse (Scotland) Bill

<sup>9</sup> Scottish Government (2017) Homelessness in Scotland: 2016-17, Tables (Table 6)

<sup>10</sup> Homeless Link (2018) Young and homeless 2018

<sup>11</sup> Scottish Government (2017) Recorded crime in Scotland, 2016-17

<sup>12</sup> Evidence submitted to this report by Rape Crisis Scotland

### 3.1.3 Violence against disabled women and girls

In recent years, Scottish Government and justice institutions have instigated significant movement regarding VAWG. However, men's violence against women and girls remains a human rights violation experienced at epidemic levels in Scotland.<sup>13</sup> For disabled women this breach of rights is even more extreme. Studies show that 73% of disabled women have experienced domestic abuse and 43% have been sexually assaulted.<sup>14</sup> Disabled women in the UK are up to twice as likely to experience sexual violence as non-disabled women.<sup>15</sup>

#### Questions

- What specific arrangements is Scottish Government making to address high levels of domestic and sexual abuse of disabled girls and women?

## 3.2 Access to justice

### 3.2.1 Use of remand

Women in Scotland are more likely than men to be detained in prison while presumptively innocent.<sup>16</sup> Most women remanded to custody pending their trial or sentencing date are detained for non-violent offences.<sup>17</sup> Moreover, approximately 70% of women on remand in Scotland do not go on to receive a custodial sentence by the court,<sup>18</sup> raising questions as to why their right to liberty was restricted in the first instance.

The use of remand has a catastrophic impact on women, removing them from their communities, support networks, families and children. Detaining women prior to conviction and/or sentencing results in the loss of homes and employment, adding further barriers to women's safe and successful return to their communities on release. There is therefore clear need for Scottish Government to reform its current statutory framework for determining bail, including gender equality impact assessment.

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<sup>13</sup> Scottish Government (2017) Equally Safe: A delivery plan for Scotland's strategy to prevent VAWG

<sup>14</sup> Wise Women (2015) Daisie project: violence against disabled women survey

<sup>15</sup> Balderston (2013) Victimised again? Intersectionality and injustice in disabled women's lives after hate crime and rape

<sup>16</sup> Prison Reform Trust (2016) Women and Remand in Scotland: Roundtable Report

<sup>17</sup> ibid

<sup>18</sup> Prison Reform Trust (2017) Why focus on reducing women's imprisonment in Scotland

To reduce the number of women on remand, the use of diversionary services should be increased. Through trauma-informed practices, such services can tackle the root causes of offending and support women to break the cycle of offending behaviour.<sup>19</sup>

### Questions

- Will Scottish Government introduce legislative reforms to reduce the use of remand where a defendant is unlikely to receive a custodial sentence if convicted?
- How will Scottish Government increase the use of diversionary services and ensure they meet women’s needs?

### 3.2.2 Legal Aid

Women victims-survivors of domestic abuse continue to struggle with limited access to competent and affordable legal services. Access to a Legal Aid lawyer who accepts domestic abuse cases, understands the dynamics of domestic abuse, and is affordable (especially given constrained access to family assets that survivors routinely experience) is highly unlikely in Scotland.<sup>20</sup>

Scottish Government support for a Scottish Women’s Rights Centre that carries out strategic litigation is welcome. However, Scottish Women’s Aid has long called for specialist advice services for women and children experiencing domestic abuse. This was supported by an independent review commissioned by Scottish Government, which called for “publicly funded legal assistance solicitors to be embedded within third sector organisations who have a significant civil case load.”<sup>21</sup>

### Questions

- Will Scottish Government reconfigure Scottish Legal Aid provision to enable access by all victim-survivors of domestic abuse?

<sup>19</sup> For instance, Turning Point’s 218 service

<sup>20</sup> Scottish Women’s Right Centre (2017) Gender, Justice and Legal Aid in Scotland

<sup>21</sup> Evans (2018) Rethinking Legal Aid: An independent strategic review



## Article 4: Special Measures

### 4.1 Quotas

Only 35% of current Members to the Scottish Parliament are women, every one of whom is white and non-disabled. Scotland has regressed in the global rankings from 4th place in 2003, to 30th place at present.<sup>22</sup> In 2017, Scotland returned 71% men to power in local government elections.

Men's overrepresentation at all levels of Scottish politics is sustained by male-dominated cultures and informal systems of privilege, with political parties serving as gatekeepers to women's elected representation. Legislated parliamentary quotas are a proven mechanism that have been used worldwide to address these barriers and women's historical exclusion from politics with a high degree of success.

At present, the power to introduce gender quotas in politics is reserved to UK Government under electoral and equalities law. Amendments could be made to both domains, allowing Scottish Government to legislate for women's equality, as it did following a similar devolutionary order regarding gender quotas for public boards.

#### Questions

- Will Scottish Government push for amendments to the Equality Act and to electoral law that would allow the implementation of parliamentary quotas in Scotland?

## Article 5: Stereotyping and Cultural Prejudices

### 5.1 Sexism in the media

The negative impact of the media on women and on gender equality is profound. In 2017, every single major Scottish newspaper and national broadcaster was headed by a man, ultimate responsibility for content, production, and equality and diversity.<sup>23</sup> This trend is reflected in ubiquitous stereotyping of women and an overwhelming lack of gender balance across all media platforms in the UK.<sup>24</sup> Women standing for political office are routinely subjected to sexism in the media, and the absence of quality reporting on gender issues contributes to sustained inequality for women.

<sup>22</sup> Inter-Parliamentary Union (2018) Women in parliaments (accessed 27/5/18)

<sup>23</sup> Engender (2017) Sex and power in Scotland 2017

<sup>24</sup> Global Media Monitoring Project (2015) Who makes the news?



Sexualised imagery of women and girls across the media is so commonplace and widely accepted that objectification of women's bodies generally fails to resonate as an equality issue. The Scottish media's reporting of gendered violence perpetuates harmful myths, and is systematically inaccurate, sensationalist and unnecessarily graphic.<sup>25</sup>

The scale of online violence experienced by women, particularly on social media platforms, is an emerging issue that requires investment and development. More than a third of young women in the UK have experienced online abuse or harassment.<sup>26</sup>

### Questions

- Will Scottish Government resource a body to monitor and map levers to tackle stereotyping and sexism in Scottish media?

## 5.2 The care economy

In Scotland, unpaid care is worth £10.8 billion to the economy per annum, with around 70% of this undertaken by women.<sup>27</sup> This contribution equates to a third of the national budget, yet it is chronically undervalued by society and Scottish Government policy. Similarly, 85% of professional care staff in Scotland are women.<sup>28</sup> Systemic underinvestment in these sectors is reflected, for example, in the annual turnover of a third of staff in Scotland's care homes.<sup>29</sup> Scotland must invest in development of the care workforce, including to address equal pay issues endemic within the sector. This will be a key component of its Ministerial commitment to tackle occupational segregation, and the lifelong gender stereotyping that underpins it.

Women's unpaid and underpaid care work props up the economy, and is as vital to a functioning economy and society as physical infrastructure such as transport networks. However, Scotland's economic strategy does not recognise this, leading to disproportionate investment in a small number of male-dominated 'key sectors'. If social care was made a key sector, it would bring care within the scope of economic development and skills agencies, enabling a more robust model of investment.

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<sup>25</sup> Zero Tolerance The Write to End Violence Against Women Awards and media monitoring study (accessed 27/5/18)

<sup>26</sup> Amnesty International UK (2017) Amnesty and Ipsos MORI poll online

<sup>27</sup> Carers UK (2015) Valuing carers 2015

<sup>28</sup> Scottish Social Services Council (2017) Report on 2016 workforce data

<sup>29</sup> Scottish Care (2018) The open doors of recruitment and retention in social care

## Questions

- Will Scottish Government recognise care as a key sector in Scotland's Economic Strategy?
- Will Scottish Government develop a social care workforce strategy to reposition care as highly-skilled and appropriately remunerated work?

## Article 7: Political and Public Life

### 7.1 Diversity in politics and public life

Women and other groups protected by the Equality Act 2010 are significantly under-represented within the UK political sphere. Strategies to enable BME, disabled, LGBT, older, younger, refugee and working-class women to take up positions in politics and public life would bring significant benefits to society and to their respective communities. There are no BME, disabled or transgender women currently represented in the Scottish Parliament. National candidates often gain experience in local government. However, macho political cultures and gendered barriers to participation in local and grassroots politics persist. For instance, enabling structures like flexible working in local government workplaces and childcare options at branch meetings are lacking.

Scottish Government's Access to Elected Office Fund to support disabled people into politics is extremely welcome. However, core equalities issues such as accessibility at branch meetings, and racist practices and behaviours are still commonplace.

More broadly, policymaking in Scotland would be strengthened significantly if it was systematically informed by a wider range of women's voices. Women's community organisations, including BME women's groups and others that support women facing multiple discrimination, are an invaluable source of evidence and experiential knowledge on issues that undermine the rights of women. However, current engagement practices do not include adequate outreach to those women furthest from decision-making in Scotland, and rely heavily on a narrow range of consultation methods.

## Questions

- Will Scottish Government develop and publish an intersectional strategy to address barriers to political participation?
- How will Scottish Government increase the diversity of women's influence within policymaking, particularly for BME and disabled women?

## 7.2 Public boards

Men in Scotland continue to be overrepresented across the spectrum of public life in Scotland, including across membership of public boards. Latest figures show men accounting for 64% of Scotland's regulated board members and 79% of board chairs.<sup>30</sup>

This lack of gendered power balance in the public domain has a major impact on equality of outcomes across government. For example, women in Scotland report that public transport does not meet their needs,<sup>31</sup> reflecting the fact that 94% of public transport bodies are headed by men.<sup>32</sup>

The Gender Representation on Public Boards (Scotland) Act 2018 implemented a gender representation objective for some public boards in Scotland. Whilst welcome, executive members of boards were not included, and as such a number of public bodies which oversee vital areas for women's rights, including health, social care and transport are exempt from the requirement.

### Questions

- How will Scottish Government ensure that public boards not captured in the Gender Representation on Public Boards (Scotland) Act 2018 increase their representation of women?
- How will Scottish Government ensure a diversity of women, including BME, disabled and working-class women, are represented on public boards?

## Article 10: Education

### 10.1 Schools

#### 10.1.1 Sexual and reproductive health education

In 2013, the Committee recommended mandatory education on sexual and reproductive rights be included in school curricula. However, revision of Scottish Government's Relationship, Sexual Health and Parenthood (RSHP) Education guidance in 2014 did not address this. Some schools do not offer RSHPE, and there is wide variation in content regarding consent, violence, sex and relationships, gender stereotypes and abortion rights. Parents can opt children out of RSHPE, without the child's consent.

<sup>30</sup> Engender (2017) Sex and power in Scotland 2017

<sup>31</sup> Engender CEDAW focus groups; evidence submitted to this report by Sustrans

<sup>32</sup> Engender (2017) Sex and power in Scotland 2017

Disabled young women and girls are even less likely to receive quality RSHPE. Sex education is often not available in special education settings, whilst mainstream content is not available in different formats, and rarely addresses distinct sexual and reproductive health needs of disabled women and girls.<sup>33</sup>

### Questions

- Will Scottish Government introduce mandatory, age-appropriate and inclusive sexual and reproductive rights education in school curricula?
- How will Scottish Government ensure that RSHPE includes factual information about access to safe abortion?

### 10.1.2 Prejudice-based bullying

Sexist bullying and misogynistic behaviours are highly prevalent in education settings in Scotland,<sup>34</sup> and undermine dignity and the right to security for girls and young women. This is starkly highlighted by recent figures: 90% of girls and young women want governments to ensure that schools tackle sexual harassment and bullying; 75% report that anxiety about sexual harassment affects their lives; and 25% of 11-16 year olds state that potential sexual harassment affects whether they speak out in class.<sup>35</sup> Instances of BME girls experiencing sexualised racial bullying, harassment, and violence in Scottish schools appears to be on the rise.<sup>36</sup>

However, schools in Scotland do not routinely collect data regarding sexist incidents, and Scotland's national approach to anti-bullying makes little reference to gender-based harassment.

### Questions

- Will Scottish Government ensure that data on sexist and misogynist bullying is collected, with separate categories for sexual harassment and assault?
- Will Scottish Government review the Scottish anti-bullying strategy to ensure it adequately tackles gender-based bullying in schools?

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<sup>33</sup> Submissions to the Special rapporteur study on the sexual and reproductive health and rights of girls with disabilities

<sup>34</sup> Educational Institute of Scotland (2016) Get it Right for Girls

<sup>35</sup> *Girlguiding UK* (2015) Girls' Attitudes Survey 2015

<sup>36</sup> Evidence submitted to this report by Coalition for Racial Equality and Rights

# Article 11: Employment

## 11.1 Childcare

Childcare costs in the UK are among the highest in the world.<sup>37</sup> As a result, 25% of parents living in absolute poverty in Scotland have given up work, a third have turned down employment, and a further 25% have been unable to take up education or training.<sup>38</sup> The situation worsens for parents of disabled children and those living in rural areas.

The Scottish Government will increase its free childcare provision by 2020. However, whilst welcome, significant issues remain. The offer falls far short of wrap-around childcare services that enable women to undertake paid work, training and education on an equal basis.<sup>39</sup> Entitlements for two year olds are not available on a universal basis and eligibility is narrower than elsewhere in the UK.<sup>40</sup>

The development of quality childcare must be accompanied by investment in the undervalued workforce. The childcare workforce should be graduate-led and supported by funding for training and career development. The recruitment of 20,000 additional workers to deliver the expansion in funded hours provides an opportunity to tackle acute occupational segregation in the sector, however there is little evidence of robust interventions to do so.

### Questions

- How will Scottish Government develop service provision models that offer flexibility, fitting the needs of all children and the realities of all parents?
- Will Scottish Government extend eligibility for funded childcare to all children between 6 months and school age?
- Will Scottish Government focus on workforce development and addressing occupational segregation as part of its childcare expansion plans?

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<sup>37</sup> OECD (2017) Family Database: PF3.4 Childcare support

<sup>38</sup> Save the Children (2017) Soaring childcare costs push parents out of work in Scotland

<sup>39</sup> Most state-funded childcare options coincide with school hours. This drives women's low-paid, part-time work and underemployment.

<sup>40</sup> Family and childcare trust (2017) Childcare survey 2017

## 11.2 Equal pay strategy

The overall median gender pay gap in Scotland is 15.6%,<sup>41</sup> representing profound gender differences in labour market experience. 64% of workers on poverty wages in Scotland are women,<sup>42</sup> many of whom are clustered in low-skilled, precarious and/or part-time work. Between 2010 and 2015, pregnancy and motherhood discrimination almost doubled across the UK, with up to 54,000 women losing their jobs,<sup>43</sup> and 52% of women have experienced sexual harassment in the workplace.<sup>44</sup> In 2017, only 12% of jobs advertised in Scotland allowed for flexible working patterns.<sup>45</sup>

BME women experience high rates of unemployment compared with white women and BME men, and are concentrated in low-paid jobs<sup>46</sup> despite high levels of educational attainment. Lack of data regarding these experiences and those of other marginalised groups undermines efforts to close the gender pay gap in Scotland.

Drivers of the gender pay gap are not taken into account across policy domains that are integral to the solution in Scotland.<sup>47</sup> Whilst Scottish Government's scoping exercise to address this is welcome, there is clear need for a high-level, holistic and intersectional approach to tackling the gender pay gap in Scotland.

### Questions

- Will Scottish Government implement an intersectional national strategy to close the gender pay gap?

## Article 12: Health

### 12.1 Abortion

Access to safe abortion is fundamental to women's economic and social rights, employment, education and access to resources. Abortion is vital, routine healthcare that around one in three women will experience in her lifetime,<sup>48</sup> yet laws and policies in Scotland do not yet reflect this reality.

<sup>41</sup> Close the Gap (2017) Gender pay gap statistics

<sup>42</sup> Scottish Parliament Information Centre (2016) The Living wage: facts and figures

<sup>43</sup> EHRC (2016) Pregnancy and maternity-related discrimination and disadvantage

<sup>44</sup> TUC (2016) Still just a bit of banter? Sexual harassment in the workplace in 2016


<sup>45</sup> Timewise (2017) Flexible Jobs Index 2017

<sup>46</sup> Scottish Government (2011) Scottish Census: Economic Activity by Ethnicity and Sex

<sup>47</sup> Close the Gap (2018) The gender penalty

<sup>48</sup> Purcell (2015) The sociology of women's abortion experiences: recent research and future directions





In Scotland, women's right to choose is still predicated on the legal authority of two doctors, without which both women and health practitioners are subject to prosecution under the 1967 Abortion Act. This is unacceptable in 2018; abortion should be decriminalised and provision should be regulated in line with all other healthcare.

There are also issues with abortion care services in Scotland. At present, women are forced to travel to England for abortion from between 16-20 weeks gestation, despite the legal threshold of 24 weeks. Access and process across regional health boards is also inconsistent.<sup>49</sup> A national framework should be established to standardise and monitor access to abortion, regardless of geography, financial status, or any other equality characteristic.

### Questions

- Will Scottish Government set out plans to decriminalise abortion?
- Will Scottish Government develop service provision up to 24 weeks in Scotland?
- Will Scottish Government ensure equality of access to abortion with a national standards framework?

## 12.2 Reproductive health

Women's experiences regarding reproductive and maternal health are not systematically addressed in Scotland.

For instance, endometriosis is a chronic gynaecological condition that affects around one in ten women of reproductive age, yet it is routinely dismissed as 'period pain' and women wait an average of 7.5 years to receive a diagnosis.<sup>50</sup> Around 20% of mothers experience perinatal mental health problems and only 50% of these cases are diagnosed,<sup>51</sup> however, 50% of health boards in Scotland lack perinatal mental health services.<sup>52</sup> This is particularly problematic for rural women and young mothers who experience higher rates of poor perinatal mental health.

Disabled, LGBT and care experienced women in Scotland report discrimination in accessing

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<sup>49</sup> Engender (2016) Our bodies, our choice: The case for a Scottish approach to abortion

<sup>50</sup> NICE (2017) Endometriosis: diagnosis and management

<sup>51</sup> RCPG (2016) Position statement about perinatal mental health

<sup>52</sup> *Maternal Mental Health Alliance (2018)* UK specialist perinatal mental health community teams, 2017 data

reproductive health services,<sup>53</sup> and women with insecure immigration status are at particular risk of poor prenatal and maternal health.<sup>54</sup>

Barriers to broader aspects of physical and mental health for women facing multiple inequalities in Scotland (including adolescent girls (whose mental health is poorer than that of boys),<sup>55</sup> refugee, asylum-seeking,<sup>56</sup> migrant, learning disabled, and older Indian, Pakistani and Bangladeshi women<sup>57</sup>) suggest that intersectional evidence regarding women's experiences of pregnancy and birth is urgently needed.

### Questions

- How will Scottish Government address the systemic misdiagnosis and mismanagement of endometriosis?
- How will Scottish Government ensure the new Managed Clinical Network on perinatal mental health focusses on equality of access for diverse groups of women?
- Will Scottish Government undertake an intersectional review of reproductive health services?

## Article 13: Economic and Social Benefits

### 13.1 Social security

#### 13.1.1 Scotland's new social security system

The UK Government's programme of 'welfare reform' is having an egregious impact on gender equality and on women's rights to security and an adequate standard of living. Between 2010 and 2020, up to 86% of net 'savings' raised through cuts to social security and tax credits will come from women's incomes.<sup>58</sup> Disabled, BME and refugee women, lone parents, unpaid carers and other marginalised groups are at even greater risk of poverty and destitution.

We welcome steps taken by Scottish Government to diverge from harmful UK policy and

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<sup>53</sup> Evidence submitted to this report; Engender workshops with disabled women 2013-2018

<sup>54</sup> EHRC (2016) *Is Scotland Fairer: The state of equality and human rights 2015*

<sup>55</sup> SAMH (2017) *Going to be all right? A report on the mental health of young people in Scotland*

<sup>56</sup> Strathclyde University (2016) *What do you mean, I have a right to health? Participatory action research on health and human rights*

<sup>57</sup> EHRC (2016) *Is Scotland Fairer: The state of equality and human rights 2015*

<sup>58</sup> Women's Budget Group (2016) *The impact on women of the 2016 Budget*



to mainstream equality objectives in its new social security system. These include commitment to automatically split payments of Universal Credit, and the principle of equality and non-discrimination in the Social Security (Scotland) Act 2018. Gender equality should be further embedded in forthcoming statutory instruments, guidance, individual policies, and services on the ground.

### Questions

- How will Scottish Government build on its approach to mainstreaming gender equality in Scotland's social security system?
- How will Scottish Government monitor and evaluate the impact of social security policy on women's equality?

### 13.1.2 Maternity entitlements

Between 2015 and 2020, mothers in the UK are set to lose a total of £13bn of social security payments.<sup>59</sup> This is an attack on women's unpaid work and the value of care. Child benefit and child tax credit were frozen in 2016, meaning a projected 12% loss of income for households with children by 2020.<sup>60</sup> This will reduce access to childcare and lock mothers of young children out of opportunities in education and employment. Meanwhile, 63% of those impacted by the annual cap on household benefits have been lone parents.<sup>61</sup> Women who are lone parents are expected to experience an average estimated 20% drop in living standards by 2020.<sup>62</sup>

Whilst Scottish Government did not implement these policy changes, it could help to mitigate them with a programme addressing the inadequacy of maternal benefits. For instance, it could increase child benefit, widen access to the Best Start Grant and ensure that Citizen's Basic Income pilots are subject to rigorous gender equality impact assessment.

### Questions

- Will Scottish Government develop a programme to address the inadequacy of maternal benefits?

<sup>59</sup> House of Commons Library (2016) spreadsheet accessed 29/5/18

<sup>60</sup> The Children's Society (2016) The future of family incomes

<sup>61</sup> DWP (2017) The estimated impact of the benefit cap on parents, by age of youngest child

<sup>62</sup> Women's Budget Group (2016) A cumulative impact assessment of ten years of austerity policies

### 13.1.3 Unpaid carers

Across the UK, £1bn has been cut from carers' incomes between 2011 and 2018.<sup>63</sup> This is in a context where UK Government pays Carer's Allowance at the lowest rate for any income replacement benefit, equalling less than 25% of the minimum wage. Scottish Government pays a Carer's Allowance Supplement,<sup>64</sup> but carers in Scotland still only receive a maximum of £2 per hour for providing essential care.

Unpaid carers, 60-70% of whom are women, save Scotland an estimated £10.8bn per year.<sup>65</sup> This equates to a third of the national budget. Women are twice as likely as men to give up paid work in order to care, and four times as likely to have multiple caring responsibilities,<sup>66</sup> with clear ramifications on their education, income, and physical and mental health. Yet carers who are in full-time education, earn more than £120 a week, or have multiple caring roles are ineligible for Carer's Allowance.

#### Questions

- Will Scottish Government create a strategy to address the inadequacy of financial support for unpaid carers?
- Will Scottish Government abolish restrictions on Carer's Allowance related to education, employment and multiple caring roles?

### 13.1.4 Destitution and lack of recourse to public funds

Women experiencing domestic abuse who have been refused asylum, are newly granted refugees or have insecure immigration status are at high risk of extreme poverty and destitution, due to lack of access to public funds.<sup>67</sup> Restricted access to social security and to publicly funded refuge places is also placing women at heightened risk of domestic abuse.<sup>68</sup> Women are not able to access the support needed in order to leave an abusive partner.

Women who have been released from prison have significant difficulty accessing financial assistance. Social security support is vital to facilitate women's safe and successful transition to the community. Women who are homeless, and women who have been subjected to sex trafficking and forced labour are also particularly vulnerable to destitution.

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<sup>63</sup> Carers UK (2014) Caring and family finances inquiry

<sup>64</sup> *The supplement is around £8.50 per week*

<sup>65</sup> Carers UK (2015) Valuing carers 2015

<sup>66</sup> Carers UK (2012) Sandwich caring: combining childcare with caring for older or disabled relatives

<sup>67</sup> Scottish Parliament Equalities and Human Rights Committee (2017) Hidden lives – new beginnings

<sup>68</sup> Scottish Refugee Council (2016) Building a better future for refugees in Scotland

## Questions

- Will Scottish Government develop a destitution policy that includes a minimum income standard?
- Will Scottish Government provide women leaving prison with immediate access to social security entitlements?

## 13.2 Care

### 13.2.1 Carers' rights

Women's unpaid care work props up our economy and society, but this is not reflected in Scotland's social care system. Carers feel ignored and unsupported by existing systems and practices, which is worsened by the current lack of independent advocacy and barriers to justice.<sup>69</sup> As a first step, a redress mechanism should be developed to protect the rights of carers and those for whom they care.

Access to short breaks is 'vital to sustaining the caring relationship, and the health and well-being of carers'.<sup>70</sup> However, despite the Carers (Scotland) Act 2018, the availability of short breaks is limited and varied across Scotland, and not viewed as an essential support service for carers and those for whom they care.<sup>71</sup> Employability services that support carers in – and into – employment and provide opportunities education and training are also needed.

## Questions

- Will Scottish Government establish an independent social care tribunal to protect the rights of carers and those for whom they care?
- Will Scottish Government establish and resource a minimum entitlement to breaks from caring?
- Will Scottish Government ensure that its employability services are tailored to support carers to access education, training and employment opportunities?

<sup>69</sup> The Scottish Independent Advocacy Alliance (2016) Map of advocacy across Scotland

<sup>70</sup> *National Carer Organisations* (2016) Manifesto for unpaid carers in Scotland

<sup>71</sup> Shared Care Scotland (2017) Carers Act: Short breaks services statement

### 13.2.2 Social care

The social care system in Scotland<sup>72</sup> is in crisis, breaching basic human rights. People are living without essential support beyond the bare minimum for survival, largely due to chronic underinvestment in the sector. Yet demographic trends mean that demand for care will only increase. The number of adults in need of care by 2026 is projected to rise by 30% in Scotland.<sup>73</sup> Meanwhile, 85% of the social care workforce is comprised of women,<sup>74</sup> and the low pay that characterises the sector reinforces occupational segregation, the gender pay gap and the cultural undervaluation of care.

Adequately funded social care supports people to participate fully in society and can prevent isolation, exclusion, illness, and poverty. However, experts in Scotland warn that ‘the whole system of funding social care is broken’.<sup>75</sup> Scotland is urgently in need of a system that sees social care support as an investment in the social and economic wellbeing of society as a whole.

#### Questions

- Will Scottish Government launch an independent review of social care to develop a system reflecting its human rights obligations and gender equality commitments?
- Will Scottish Government develop a nationwide and sustainable infrastructure of social care support?

## Article 15: Equality Before the Law

### 15.1 Treatment of rape complainers in court

Despite the rise in reported sexual crime,<sup>76</sup> conviction rates are falling in Scotland. Only 39% of cases resulted in conviction in 2016-17, the lowest rate seen in eight years.<sup>77</sup> Yet, known inadequacies within the criminal justice system have been allowed to persist.

Key components of the Scottish Courts and Tribunal Service evidence and procedure review

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<sup>72</sup> Social care is state support for people with long-term needs, including disabled people, elderly people and those with long-term conditions

<sup>73</sup> National Carer Organisations (2017) Manifesto for carers in Scotland

<sup>74</sup> Scottish Social Services Council (2017) Report on 2016 workforce data

<sup>75</sup> Independence Living in Scotland (2015) Briefing on social care funding in Scotland

<sup>76</sup> Scottish Government (2017) Recorded crime in Scotland, 2016-17

<sup>77</sup> Scottish Government (2018) Criminal proceedings in Scotland, 2016-17

from 2015 have not been enacted.<sup>78</sup> It recommended urgent consideration for “development of a new, structured scheme that treats child and vulnerable witnesses in an entirely different way”, including pre-recording of victim-survivors’ evidence and cross-examination.

Medical and other sensitive records can be accessed during criminal proceedings, undermining the right to privacy for rape complainers. In 2016, Scottish Government committed to an improved process for notifying complainers of their rights to refuse access to their records and to access Legal Aid to do so. However, lack of clarity remains.

### Questions

- When will Scottish Government act on the findings in the Scottish Courts and Tribunal Service’s evidence and procedure review?
- When will Scottish Government implement a clear process for notifying complainers of their rights whenever access to medical or sensitive records is sought?

## Article 16: Marriage and Family Life

### 16.1 Disabled and care-experienced women

Disabled and care-experienced women in Scotland report discrimination, stigma and lack of autonomy regarding relationships, sex, and reproductive and parental rights. Women routinely face stereotyping and negative assumptions over fertility, family planning and parenting, from both service providers and family. Disabled and care-experienced women are pressurised not to have children, with some disabled women even coerced into terminating pregnancies.<sup>79</sup>

Pre-emptive intervention from social services in the family lives of disabled women is high, including the placement of children in state care where no evidence of neglect exists,<sup>80</sup> and such family court cases disproportionately affect women. Parents with learning

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<sup>78</sup> Scottish Courts Service (2015) Evidence and procedure review

<sup>79</sup> Engender workshops with disabled women 2013-2018; evidence submitted to this report by Who Cares? Scotland

<sup>80</sup> Quarmy (2011) Scapegoat: why we are failing disabled people

disabilities are up to 50 times more likely to be involved in care proceedings.<sup>81</sup> However, data regarding these experiences is fundamentally lacking at Scottish level.<sup>82</sup>

Disabled and care-experienced women and girls also face barriers to appropriate reproductive and sexual healthcare. These include physical accessibility, assumptions about sexuality, access to contraception and advice, and lack of autonomy within family and care settings. Learning disabled women, in particular, lack control with regards to relationships and sex.<sup>83</sup> This leaves women at risk of abuse, and fundamentally undermines their rights regarding marriage and family relations.

### Questions

- How will Scottish Government ensure that disabled and care-experienced women's maternal and reproductive rights are protected?

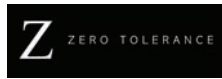
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<sup>81</sup> The Baring Foundation (2006) A review of issues and positive practice in supporting parents with learning disabilities and their children


<sup>82</sup> Iriss (2017) Parents with learning disabilities

<sup>83</sup> Evidence submitted to this report by People First

## This report has been endorsed by:



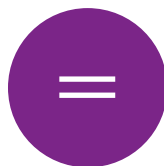
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