

Engender submission of evidence to the Misogyny and Criminal Justice in Scotland Working Group

September 2021

1. INTRODUCTION

Engender is grateful for this opportunity to submit our views to the Misogyny and Criminal Justice in Scotland Working Group. These comments represent a summary of our existing work on hate crime and challenging misogyny, all of which is publicly available. We are extremely pleased to be involved in this work and our comments here should not be taken as the views of the Working Group or any other member. We remain committed to fulsome and open consideration of all options presented to and within the work of the Group.

Engender, alongside other national women's organisations, has practical concerns about including gender-based violence against women in the model of hate crime. The Scottish hate crime model protects women who experience crimes motivated by hatred towards them because of their membership of a minority group, including lesbian and bisexual women, disabled women, trans women, and Black and minoritised women. Violence against women is a human rights violation and a cause and consequence of women's inequality. It occurs at endemic levels in both public and private settings. Misogynistic behaviour, harassment and abuse is a constraint on choice and freedom at significant scale, which demands a credible and appropriate criminal justice response. Simply put, women cannot live a good life while harassment rooted in sexism and misogyny is allowed to inflect our daily reality. Yet gender and 'hate crime' is substantially under-theorised and there are limited examples to learn from, including overcoming barriers to effective utilisation of the law to respond.

Comments on the definition presented

We welcome the working definition of misogyny provided by the group:

'Misogyny is a way of thinking that upholds the primary status of men and a sense of male entitlement, while subordinating women and limiting their power and freedom. Conduct based on this thinking can include a range of abusive and controlling behaviours including harassment and bullying. Misogyny can be conscious or unconscious, and men and women both can be socialised to accept it.'

This approach endeavours to capture the essential element of power, a concept that has been worryingly absent from the conversations around hate crime. Misogynistic harassment, like other forms of violence against women, reproduces 'relations of dominance'¹ between women and men. It is both a cause and consequence of women's inequality. As Scotland's definition of hate crime ignores questions about power it is much more difficult to see how it could be used to respond to the very gendered patterns of egregious misogynistic harassment which constrain our choices about where to go, what to say, how to dress, or how to engage in work and leisure.

While this definition is deliberately non-legal, we find it to be a useful place to begin to identify the essential elements of any legal response that is practical, identifiable and effective, rooted in feminist and lived understanding of gendered power division. It should be used to support the knowledge needed within criminal justice institutions to investigate and adjudicate any law. Clarity on what problem we are trying to address is key to developing good law and ensuring its effective implementation.

2. Which conduct do you consider to be covered by the term misogynistic behaviours?

Qualitative and anecdotal evidence from women suggests the vast majority have encountered a range of misogynistic behaviours in public settings. Behaviour that is a manifestation of misogyny covered a broad spectrum from those commonly understood as violence against women to statements or acts displaying sexist attitudes wielded in such a way as to police or punish women for particular ways of being. This includes actions such as catcalling, staring, offensive comments, and groping through to physical and sexual assault as well as coercive and controlling behaviours. We understand sexualised and/or misogynistic harassment:

- Happens to the majority of women and girls;
- Costs women and girls time, money, and energy to avoid and manage harassment-related risks;
- Makes women and girls more fearful of victimisation than men and affects how women and girls use public space and spend their leisure time; and
- Reduces women and girls' space to act by constraining their behaviour online, in the classroom, and in the workplace.

Such behaviour further communicates that women and girls do not have equal access and rights to safety, public space, and physical autonomy. It features sexist and sexualised language, unwanted touching, defamation and disruption to women's professional lives and girls' education, and sexually objectifying concepts and materials. This is the case even when men are the primary targets, such as when high-

¹ Kelly, Liz. (2005) How Violence is Constitutive of Women's Inequality and the Implications for Equalities Work. Child and Woman Abuse Studies Unit, London Metropolitan University.

profile men receive rape threats to their female partners or daughters, or when male doctors who provide abortion healthcare appear on flyers with a reticule from a rifle scope digitally superimposed over their portraits.

3. Do you know of any Scottish laws that currently address misogynistic behaviours?

There are several laws that are capable of being applied to misogynistic behaviours. However, there is a critical gap in the implementation and application of these laws to violence against women in public and private spaces. For example, a section 38 offence is capable of being applied to a wide range of behaviours that women experience as misogynistic harassment. However, this does not appear to be being utilised to do so.

There are also laws which cover violence against women in particular settings, such as the Domestic Abuse (Scotland) Act 2018 and the Sexual Offences (Scotland) Act 2009.

4. Do the current laws adequately protect women in Scotland from misogynistic behaviours?

Women in Scotland are not adequately protected from misogynistic behaviours. There are significant holes in current data about prevalence and incidence. There has also been minimal work to review whether there are gaps in the law or gaps in implementation by justice bodies.

There has been no systematic review of the way in which existing criminal and civil law in Scotland could be used to disrupt and respond to egregious misogyny. It is impossible to be certain about which gaps exist and whether failures to act in specific cases are a result of the law itself, or weaknesses in implementation. Women often describe their experiences of the criminal justice system in extremely negative terms and present this as a barrier to reporting their experiences. Understanding the gaps requires both a mapping of existing laws and a review of *why* it is failing to be used to respond to women's experiences of misogynistic behaviours. A review of structural or institutional sexism and misogyny in the operation of the criminal justice system is also sorely needed.

5. Are there any gaps in the law in Scotland regarding misogynistic behaviours?

In our view yes. While there is flexibility in current laws that could be used creatively to respond to misogynistic behaviours in certain contexts or at certain levels of severity, none of these were designed with misogyny, gendered access to safety, or power dynamics at their core. As a result, the creative use of existing law does not

seem to be happening. It is unclear to what extent this reflects a failure to conceptualise gender in the criminal justice system or the limitations of the laws themselves. There is no named offence of harassment that can generally be used to respond to such behaviour, and as such harassment is limited to civil law. One exception is the offence of racially-aggravated harassment. This can be committed on the basis of a single act ‘which is racially aggravated and which causes, or is intended to cause, another person alarm or distress’ or a course of conduct.²

Section 38 of the Criminal Justice and Licensing (Scotland) Act is possibly the clearest opportunity to protect women from serious harassment and abuse, however it is clear that this is not being used to do so. The recent application of s.38 in the case of Ahmed v. HMA demonstrates the limitations of the existing law starkly. In an appeal against conviction the judge stated that:

“It does not seem to us that a polite conversational request or compliment can be construed as threatening merely because it is uninvited or unwelcome. There was nothing in the appellant’s behaviour as spoken to by the complainers in charges 5, 6 and 18 which was overtly threatening or which could reasonably be construed as threatening.”

Clearly the court did not take a gendered approach when interpreting the meaning of ‘threatening or abusive’ as applied to Ahmed’s behaviour, which included unsolicited comments towards young women, approaching them in secluded areas and following one woman through the city before grabbing her. Ahmed filmed many of instances of his interactions with women as a self-titled “pick-up artist” and offered tips on how to overcome “last-minute resistance” to sex.

This failure further raises the question of whether ‘threatening or abusive’ is the appropriate standard for misogynistic harassment or whether such a standard can be reimagined. Similarly, we are convinced that the standard used for the hate crime aggravator – malice and ill-will – would not be capable of reflecting the critical elements identified in the working group’s definition – “upholds the primary status of men and a sense of male entitlement, while subordinating women and limiting their power and freedom.”

Most of these behaviours take place in both public and private space, however public and online settings seem the most obvious place for a new offence that sits alongside effective implementation of law responding to domestic abuse and sexual crimes. Even if new law does duplicate or overlap with existing laws this is not an argument against action if it can demarcate some wrongs as more serious, or direct attention, resource and skills.

² Hate Crime and Public Order (Scotland) Act Section 3(1)(b).

6. Do you think there should be a stand-alone offence to cover misogynistic behaviour in public spaces including the street, around schools, on public transport, online etc.?

Yes.

Despite poor data quality there is clear qualitative and quantitative evidence of a problem in these spaces that existing law is either failing to or does not respond to. For example ActionAid reported in 2016, based on survey data, that more than half (53%) of women in Great Britain had experienced some form of harassment within the last month, and that almost half (43%) of women experienced harassment at the age of 18 or younger.³ More than one in ten girls (11%) experiences street harassment before the age of ten.⁴ The 2014 Fundamental Rights Agency survey on violence against women in the European Union identified that 64% of women in the UK have avoided places or situations for fear of being physically or sexually assaulted in the 12 months prior, demonstrating the clear impact of such behaviour for women's safety and ongoing freedom.⁵

'Street harassment' is in fact a broad range of behaviours, often in concert, but which are routinely under-reported and trivialised by authorities and sometimes by women themselves despite significant impacts for women's use of spaces, health, wellbeing, and equality.⁶ We therefore believe that there needs to be a suitable response to targeting harassment commonly misunderstood be gender neutral. Public settings appear from this point of view to be the clear gap – private settings are largely covered by gendered laws, even if implementation is far from perfect. We however think that both public settings and harassment (and abuse) should be broadly defined.

For example, public settings should include violence against women that is perpetrated in and around workplaces and schools. Perpetrator tactics such as sabotage, stalking, and harassment at work affect women's productivity, absenteeism, and job retention.⁷ In the UK, more than half (52%) of women have experienced some form of sexual harassment, with one quarter experiencing unwanted touching, and one fifth of women experiencing unwanted sexual advances.⁸ Much of this behaviour

³ ActionAid UK. (2019) 'Nearly Three in Four Women Were Harassed in Past Month'. ActionAid UK. Available at: [actionaid.org.uk/latest-news/three-in-four-women-uk-world-harassed-in-last-month](https://www.actionaid.org.uk/latest-news/three-in-four-women-uk-world-harassed-in-last-month).

⁴ Vera-Gray, Fiona. (2018) *The Right Amount of Panic: How Women Trade Freedom for Safety*. 1st Edition. Policy Press

⁵ European Union Agency for Fundamental Rights (2014) 'Survey on Violence against Women in EU (2012)'. Fundamental Rights Agency.

⁶ B. Fileborn and F. Vera-Gray (2017) 'I Want to be Able to Walk the Street Without Fear': Transforming Justice for Street Harassment. Available at: link.springer.com/article/10.1007/s10691-017-9350-3

⁷ Swanberg, Jennifer E., and Caroline Macke. (2006) 'Intimate Partner Violence and the Workplace: Consequences and Disclosure'. *Affilia*. 21 (4) pp.391–406. doi:10.1177/0886109906292133.

⁸ Trades Union Congress. (2016) *Still Just a Bit of Banter? Sexual Harassment in the Workplace in 2016*. TUC

is left to civil law and the Equality Act 2010,⁹ however there are a number of barriers to justice in these spheres (detailing which are outwith the scope of the submission) and treating behaviour as a civil wrong can suggest the state has no interest. In schools, sexist bullying and sexual harassment are also very under-reported by girls, in part because they are “normalised, everyday occurrences, often positioned as “a joke” and therefore not reported”.¹⁰ A 2010 YouGov poll of 16–18-year-olds found 29% of girls experienced unwanted sexual touching at school and a further 71% said they heard sexual name-calling such as ‘slut’ or ‘slag’ towards girls at school daily or a few times per week.¹¹

Public space harassment should be capable of applying to online spaces, where women and girls experience public and targeted harassment at scale, sometimes coordinated, by perpetrators often protected by anonymity. An international survey commissioned by Amnesty International in 2017 found that nearly a quarter (23%) of women aged between 18 and 55 in Denmark, Italy, New Zealand, Poland, Spain, Sweden, the UK, and USA has experienced online abuse and harassment, and of those 41% felt that their physical safety was threatened. More than half had experienced lower self-esteem or a loss of self-confidence (61%); stress, anxiety, or panic attacks (55%); disrupted sleep (63%); or a reduction in their concentration (56%).¹²

We also support action in the public sphere because of the important communicative effect public harassment has on women and men more broadly. While critical harassment causes a direct harm to the victim(s), other women and girls who witness or hear are affected. It sends a message to all women that they are unwelcome or unsafe in public spaces controlled by men and leads them to change their use of such spaces. It creates a well-documented fear of crime, damage to women’s health and mental health, girls’ reluctance to speak in class, women’s limited progression at work, women reducing their participation in online spaces vital to civic and professional engagement, and the extent to which women must do consuming and expensive ‘safety work’ to attempt to disrupt harassment and men’s violence.

7. Do you think that the characteristic of 'sex' should be added to hate crime legislation in Scotland?

⁹ The UK Government has recently indicated that it intends to introduce a duty requiring employers to prevent sexual harassment. We await further detail on this proposal. See more at UK Government (2021) Consultation on sexual harassment in the workplace: government response. Available at: [gov.uk/government/consultations/consultation-on-sexual-harassment-in-the-workplace/outcome/consultation-on-sexual-harassment-in-the-workplace-government-response](https://www.gov.uk/government/consultations/consultation-on-sexual-harassment-in-the-workplace/outcome/consultation-on-sexual-harassment-in-the-workplace-government-response)

¹⁰ Educational Institute of Scotland. (2016) Getting It Right for Girls. EIS.

¹¹ End Violence Against Women Coalition. (2010) ‘2010 Poll on Sexual Harassment in Schools’. EVAW Coalition.

¹² Amnesty International. (2019) ‘Amnesty Reveals Alarming Impact of Online Abuse against Women’. Amnesty International. Available at: [amnesty.org/en/latest/news/2017/11/amnesty-reveals-alarming-impact-of-online-abuse-against-women/](https://www.amnesty.org/en/latest/news/2017/11/amnesty-reveals-alarming-impact-of-online-abuse-against-women/)

No. Engender has set out our views on this in our report ‘Making Women Safer In Scotland: The Case For A Standalone Misogyny Offence’¹³ and in written and oral evidence to the Scottish Parliament during the passage of the Hate Crime Bill.¹⁴ While we initially considered the opportunities of a sex aggravator when hate crime consolidation was put forward, a review of the evidence available from other states and current work on violence against women and criminal justice systems in Scotland and Europe, led us to conclude against it. In summary, we have set out our concerns as follows:

- Equally Safe, Scotland’s world-leading violence against women strategy, may be undermined. It is fundamentally contradictory under Equally Safe’s understanding of violence against women to say that some incidents of violence against women are a product of discrimination or animus on the ground of sex, and some are not.
- Human rights frameworks that Scotland is committed to, such as the Convention on the Elimination of All Forms of Discrimination Against Women and the Istanbul Convention, are clear that there should be a presumption against gender-neutral laws and symmetrical approaches such as a sex aggravation or stirring-up offence.
- There is harm in promising rights in legislation that are not actually enforceable in practice and won’t improve women’s lives. There is a risk that reaching for a solution that is easy but does not work will prevent us creating policy and legislation that is new, distinctive and, crucially, effective.
- Evidence from similar legislation shows that hate crime and hate speech are poorly understood in the context of women. Rushing to legislate risks entrenching those misunderstandings in our criminal justice systems and public understandings of violence against women.
- An ungendered and sex-neutral approach that ignores power and dominance could be more easily wielded to harm women by perpetrators of men’s violence.

Arguments in favour of adding to hate crime draw on a stated need for consistency of the hate crime regime and concern that to not add women sends a negative signal where other groups are protected. In our view, the consistency of Scotland’s world leading analysis of violence against women is not given sufficient weight here. Hate crime is an ill-fitting framework to consider misogyny and violence against women. As

¹³ Engender (2019) Making Women Safer in Scotland: The Case for a Standalone Misogyny Offence. Available at: engender.org.uk/content/publications/Making-Women-Safer-in-Scotland---the-case-for-a-standalone-misogyny-offence.pdf

¹⁴ See both Engender (2020) Engender Parliamentary Briefing Stage 1 Hate Crime and Public Order Bill. Available at: engender.org.uk/content/publications/Engender-Parliamentary-Briefing-Stage-1-Hate-Crime-and-Public-Order-Bill.pdf and Engender (2020) Submission of Evidence on the Hate Crime and Public Order (Scotland) Bill. Available at: engender.org.uk/content/publications/Engender-submission-of-evidence-on-Hate-Crime-and-Public-Order-Scotland-Bill-.pdf

noted above, women are a majority of the population who face endemic levels of violence across a wide spectrum of behaviours at epidemic levels.

Hate crime as a concept is designed to demarcate offence against minoritized groups and is not well theorised or practically understood in relation to the scale and nature of gendered harassment and abuse experienced by women. Furthermore, we find the emphasis on 'hate' too narrow to consider the broader range of 'way of thinking' and purpose of misogyny.

We are therefore not convinced that the simple existence of an aggravator would encourage police and criminal justice agencies to utilise existing law to respond to misogyny. While we know that much criminal law could be applied creatively to the sorts of behaviours that are used to intimidate and harass women, the experience of comparable regimes is not positive.

For example, the figures from New Jersey show that 20 years of a sex aggravator in their hate crime statutes delivered just 18 reports, compared with 6,810 incidences of race-based hate crimes during the same period. Clearly the comparative use of such data to draw conclusions about the scale of violence against women in New Jersey is at best non-existent and at worst could lead to conclusions that the problem of misogynistic harassment has been solved or is less harmful than crimes perpetuated against members of minoritized groups.

We do not therefore agree that any data from a hypothetical sex aggregator would reflect the real experiences of women when compared with other groups protected by the Scottish hate crime model and this may lead us to underestimate the impacts of sexism and misogyny. The Hate Crime and Public Order Act does enable data to be collected on the basis of sex of the victim, which is of support in enabling us to further understand the experiences of minoritized women.¹⁵ However, misogyny needs to be analysed differently because of the issues of applying existing criminal laws (see response to Question 5) and because of the scale and social acceptance of such harassment. The ubiquity and social acceptance of gender-inflected or misogynistic 'hate crime' has been used as a justification for failing to count it.¹⁶

We are also concerned about a sex-neutral aggravator or offence. This stands in opposition to Equally Safe, which explains that:

“By referring to violence as ‘gender based’ this definition highlights the need to understand violence within the context of women’s and girl’s subordinate status

¹⁵ Hate Crime and Public Order (Scotland) Act 2021 Available at: legislation.gov.uk/asp/2021/14/section/15/enacted

¹⁶ Hodge JP (2011) Gendered Hate. Northeastern University Press.

in society. Such violence cannot be understood, therefore, in isolation from the norms, social structure and gender roles within the community, which greatly influence women's vulnerability to violence."¹⁷

A *misogyny* offence responds to the overwhelming evidence that misogyny motivates persistent and extremely common behaviours directed by men against women with the aim of restating women's subordination to male entitlement. The critical issue of power is again ignored within a sex aggravator. While women might approach, intimidate, or harass men, there is no evidence base to support the existence of pervasive misandry, nor would such behaviour – even if criminal – communicate female dominance and male subordination. A misogyny offence is a gendered approach but could still be drafted in a sex-neutral language, covering the sorts of examples referenced in section 2, similar to the Domestic Abuse (Scotland) Act.

If all violence against women is gender-based, as is the approach of Equally Safe, segmenting instances of violence capable of being aggravated by animus towards women becomes problematic. An aggravator – whether on the basis of sex or misogyny – raises the question of what it can and should apply to. The suggestion from the Law Commission of England and Wales that this problem can be dealt with by 'carve outs' has its own problems. To have 'gender neutral' offences that can, because of particular language or a particular context, be described as misogyny undermines our understanding of men's violence against women as gendered – a cause and consequence of women's inequality and subordination. To create a further category of offences that cannot be described as aggravated by misogyny when they are so obviously gendered including rape, sexual assault and domestic abuse is nonsensical.

The most rigorous equality approach is therefore not to squeeze women in a hate crime model not designed to protect women but to treat misogynistic harassment in the way that the evidence considered by the Group suggests is most effective. A standalone bill would send a strong message that Scotland takes endemic violence against women seriously and would reflect the fact that women are over half of our population.

8. Do you think that there should be an offence of stirring up of sexual hatred added to hate crime legislation in Scotland?

In part. We believe that there is a need for law to challenge clear evidence of growing problem of radicalisation of men, especially in online settings. It should include incitement to misogyny, so that acts that crowdsource domestic abuse or harassment

¹⁷ Scottish Government, COSLA (2018) Equally Safe: Scotland's strategy for preventing and eradicating violence against women and girls.

of individuals by a distributed network are included; as well as incitement to violence against individual women and groups of women.

We are not generally supportive of a 'sex'-neutral stirring up offence. While the Group has drafted a working definition of misogyny that incorporates the nature of power, a stirring up hatred on the basis of sex that applied equally to men and women would be antithetical to this welcome approach. Marginalised groups and causes are more vulnerable to interference and less capable of inspiring actual hatred to a majority or state-backed power.

Work of writers such as Laura Bates¹⁸ and Joan Smith¹⁹ has offered insightful perspectives on the links between online sub-cultures and extreme acts of misogyny, in some cases capable of being understood as terrorism (despite ongoing reluctance to frame such instances as such, another example of the implementation and application gap). These trends should be considered in framing some form of incitement to misogyny or stirring up of misogynistic hate offence.

However, we also note that Council of Europe analysis of member states' legal, administrative, civil or criminal measures to prohibit hate speech on the basis of sex has found that "there are not many court cases dealing with sexist hate speech. This might be due to the lack of clear legislation, the lack of awareness and knowledge about rights, the difficulty to find the identity of an anonymous hater or the unwillingness to consider this issue as a serious one."²⁰ These difficulties in implementation will need to be reckoned with.

9. Other comments

Non-legal measures

Engender has limited comments to make on non-legal measures to address harassment or abuse of women. We are committed supporters of Scotland's world leading strategy to eradicate violence against women, Equally Safe, and believe that any new law should be integrated into the strategy's approach. This means understanding violence against women to be a cause and consequence of women's inequality. Undermining this causal story risks undermining agency and public understanding of violence against women and girls. Therefore, all violence against women is gender-based, as helpfully defined in Equally Safe:

¹⁸ Laura Bates (2020) Men Who Hate Women.

¹⁹ Joan Smith (2021) If extreme misogyny is an ideology, doesn't that make Plymouth killer a terrorist? The Guardian. Available at: [theguardian.com/commentisfree/2021/aug/15/extreme-misogyny-ideology-plymouth-killer-terrorist](https://www.theguardian.com/commentisfree/2021/aug/15/extreme-misogyny-ideology-plymouth-killer-terrorist)

²⁰ Council of Europe (2011) Convention on Preventing and Combating Violence Against Women and Domestic Violence. Available at: primarysources.brillonline.com/browse/human-rights-documentsonline/council-of-europe-convention-on-preventing-and-combating-violence-against-women-and-domesticviolence;hrdhrd99532014005

“Gender based violence is a function of gender inequality, and an abuse of male power and privilege. It takes the form of actions that result in physical, sexual and psychological harm or suffering to women and children, or affront to their human dignity, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life. It is men who predominantly carry out such violence, and women who are predominantly the victims of such violence. By referring to violence as ‘gender based’ this definition highlights the need to understand violence within the context of women’s and girl’s subordinate status in society. Such violence cannot be understood, therefore, in isolation from the norms, social structure and gender roles within the community, which greatly influence women’s vulnerability to violence.”²¹

We strongly recognise that a legal response is not and cannot be the only response to tackling misogyny and that not every instance of misogynistic behaviour is best dealt with through the criminal justice system. It is however vital that Police Scotland and COPFS have sufficient capacity, including gender-competence,²² to investigate and prosecute misogynistic harassment. As above, it is also essential, given the lack of data about women and girls’ experience of harassment, that there is adequate data gathered, analysed, and used to shape services, including the criminal justice response.

Intersectionality

In our view there is clear evidence that women who are racialised and minoritized experience particular forms of misogyny inflected with other forms of bias and it is vital that any new law is capable of identifying and understanding this. The existence of a misogyny offence that can be aggravated under the hate crime regime would possibly allow this, but views should be sought from women and women’s organisations that have particular experience and expertise and should also be accompanied by training for criminal justice actors that is intersectional.

10. Conclusion

At this stage we remain of the view that a new standalone offence would be the most effective and most communicative tool to respond to egregious misogyny in public settings and would enable strategies to end such harassment to sit alongside

²¹ Scottish Government, and COSLA. (2018) Equally Safe: Scotland’s Strategy for Preventing and Eradicating Violence against Women and Girls. Scottish Government.

²² Gender competence refers to the skills, knowledge and analytical capability to develop policy that is well gendered; that takes account of the socially constructed difference between men’s and women’s lives and experiences.

and within Scotland's approach to violence against women. We have previously proposed that this could – subject to further testing by the Working Group – include the following features:

- “It should develop a definition of ‘misogyny’ (and other related definitions) and enable all relevant practitioners within the criminal justice system to identify misogynistic harassment, investigate misogynistic harassment, and prosecute misogynistic harassment. This definition of ‘misogynistic harassment’ should capture the essence of Barbara Perry’s definition of hate crime, and include the sense that misogynistic harassment or bias-crime is about re-creating a gendered hierarchy of men and women. It should provide explicit protection to women and girls and men and boys that are targeted by misogynistic hate.
- “It should include incitement to misogyny, so that acts that crowdsource domestic abuse or harassment of individuals by a distributed network are included; as well as incitement to violence against individual women and groups of women.
- “It should enable action where women experience hate, bias, or harassment because of their sex or gender as well as because of another protected characteristic. It should provide for responses to misogyny that is inflected with racism, ableism, homophobia, and transphobia.
- “It should mandate the collection of data that would enable the impact of the law to be measured, and ongoing monitoring of reported incidents of misogynistic harassment and their outcome within the criminal justice system. It should also mandate collection of data about perpetration.
- “It should locate misogynistic hate crime and harassment within the understanding of violence against women in Equally Safe.
- “It should include post-legislative scrutiny so that the Scottish Parliament must evaluate its impact and any unintended consequences for women and girls’ equality and rights.”²³

FOR FURTHER INFORMATION

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ABOUT US

Engender is Scotland's feminist policy and advocacy organisation, working to increase women's social, political and economic equality, enable women's rights, and make visible the impact of sexism on women and wider society. We work at Scottish, UK and international level to produce research, analysis, and recommendations for intersectional feminist legislation and programmes.

²³ Engender (2019) Making Women Safer in Scotland: The Case for a Standalone Misogyny Offence. Available at: engender.org.uk/content/publications/Making-Women-Safer-in-Scotland---the-case-for-a-standalone-misogyny-offence.pdf