

Reforming the criminal law to address misogyny: Analysis of Responses to Consultation

May 2025

Reforming the criminal law to address misogyny: Analysis of Responses to Consultation

Why Research, February 2024

Acknowledgments

Thanks to the individuals and organisations who responded to the consultation and to all at the Scottish Government who provided input and offered advice as required.

Executive Summary	1
Respondent Profile	1
Summary of questions	1
Introduction	7
Background.....	7
Respondent Profile	9
Methodology	10
Analysis of responses.....	10
An Offence of Public Misogynistic Harassment.....	12
The proposal to create an offence of misogynistic harassment	14
Penalties – section 1(6)	20
Defences – section 2	21
Additional comments	24
An Offence of Misogynistic Behaviour.....	26
Support for creation of the offence of misogynistic behaviour.....	27
Should the offence be restricted to public conduct?	30
Penalties – section 1(6)	31
Defences – section 2	33
Freedom of expression	34
An offence of Issuing Threats of, or Invoking, Rape or Sexual Assault or Disfigurement of Women and Girls Online and Offline	38
How the offence can be committed – section 1(1)-1(3).....	42
Defences – sections 2 and 3	42
A new Statutory Aggravation relating to misogyny	46
The test for determining whether an offence is aggravated by misogyny – sections 1 (1)-1 (4).....	49
Exception for offences which are intrinsically misogynistic – section 1(5) and schedule 1	52
An offence of Stirring Up Hatred Against Women and Girls.....	56
The behaviour to be covered by the offence	58
Freedom of Expression (section 2).....	60
Impact Assessments	64
APPENDIX 1: Respondent Organisations	74

Executive Summary

In February 2021, the Scottish Government established an Independent Working Group on Misogyny and Criminal Justice in Scotland, chaired by Baroness Helena Kennedy KC. The Working Group was tasked with considering how the Scottish criminal justice system deals with misogyny, including looking at whether there are gaps in the law that could be addressed by a specific criminal offence to tackle such behaviour.

The Group published its final report on 8 March 2022. The report recommended the creation of three new criminal offences:

- Public Misogynistic Harassment;
- Threatening or invoking rape, sexual assault or disfigurement of women and girls on and off line; and
- Stirring up hatred of women and girls.

The report also recommended a new statutory sentencing aggravation concerning misogyny.

The report's recommendations were considered by the Scottish Government who proposed five new criminal laws in response to these recommendations.

On 8 March 2023, the Scottish Government launched a public consultation to seek views on draft legislative provisions which give effect to the recommendation for criminal law reform contained in the final report of the Working Group.

Respondent Profile

In total, there were 243 responses to the consultation paper, of which 43 were from organisations and 200 from individuals. A breakdown of responses is provided in the respondent profile table on page 9.

Summary of questions

There was majority support for all of the proposals consulted upon. Specific details of this majority support are provided below against each proposal.

More generally across all the consultation questions, a number of similar issues tended to emerge repeatedly to be considered as legislation is refined. These are outlined in the paragraphs below.

- The need for non-legislative approaches to be adopted, either to sit alongside new legislation or indeed suggested by some instead of new legislation. These approaches could include education within the curriculum, restorative justice approaches or public education campaigns as are currently given to speeding

drivers. The perception was that these approaches would help to bring about the necessary culture change to reduce misogynistic attitudes and behaviour.

- There was also a view that there is a need for guidance and training for professionals within the criminal justice sector.
- There were some calls for clarity in definitions throughout and as to how the proposed offences would sit alongside existing legislation such as the Hate Crime and Public Order Act.
- Some respondents had concerns over how these offences would be proved.
- A key opposition to the proposed offences was the perception that these types of offences are already covered by existing legislation.
- Smaller numbers of respondents had a perception that the proposed legislation was against the existing Equality Act (Scotland) 2010 or the Human Rights Act 1998.
- Some respondents felt any new legislation should be gender-neutral or that a new offence of harassment whereby the victim of which was a man or boy would need to be introduced to sit alongside the new offence of misogynistic harassment.

An offence of public misogynistic harassment (Qs 1-6)

- Around three in four respondents supported the proposal to create an offence of misogynistic harassment (Q1).
- Around three in four respondents agreed that the offence of misogynistic harassment should be capable of being committed in all places (Q3).
- Nearly half of respondents agreed with the inclusion of a reasonableness defence to the offence of misogynistic harassment (Q5).

Key themes emerging across these questions included:

- The need to recognise and address misogynistic harassment and create better safety and protection for women and girls.
- The suggestion that the introduction of an offence of misogynistic harassment would help to send a clear message about the seriousness of this offence.
- There was support for the list of effects on the victim.
- A minority of respondents supported a maximum penalty of 7 years imprisonment for the offence of misogynistic harassment, albeit there were calls for the penalty to relate to the severity of the offence.
- A reasonableness defence was seen to provide a safeguard for ensuring any legislation is not abused, albeit there were a few concerns over how this could be proved.

An offence of misogynistic behaviour (Qs 7-13)

- Over half of respondents supported the proposal to create an offence of misogynistic behaviour (Q7).
- Over half of respondents agreed that the offence of misogynistic behaviour should be capable of being committed in both private and public places (Q9).

- Almost half of respondents agreed with the inclusion of a reasonableness defence to the offence of misogynistic behaviour (Q11).
- Over half of respondents agreed with the inclusion of a freedom of expression provision (Q12).

Key themes emerging across these questions included:

- The need to recognise the existing culture of misogynistic behaviour and the damage it can cause to women and girls, even if the behaviour is not directed at a specific person.
- The inclusion of reasonableness and freedom of expression defences would allow for justice to be done and ensure fairness within the criminal justice system, while allowing for reasonable discussion and debate around issues affecting women and girls. That said, a few respondents were opposed to these defences as it was felt these could be used as a loophole.
- There were some concerns that freedom of expression needs to be considered in relation to artistic expression so as to ensure that artists and entertainers do not fall foul of the legislation.
- There was general agreement with the list of effects that misogynistic behaviour can have on women and girls, although those who disagreed commented that these effects are subjective and can be difficult to prove.
- There was a perception from some respondents that misogynistic behaviour can be worse in private places than in public.
- It was felt the penalty for this offence should be consistent with other similar offences and match the severity of the behaviour.
- There were some concerns that the offence would infringe on the concept of freedom of speech.

An offence of issuing threats of, or invoking, rape or sexual assault or disfigurement of women and girls online and offline (Qs 14-20)

- Over three in four respondents supported the proposal to create a specific offence of 'threatening or abusive communications to women and girls which reference rape, sexual assault or disfigurement'. Less than one in ten did not support this proposal (Q14).
- A majority of respondents (over three in four) agreed that the offence should be committed where a message is threatening or abusive, or both, and makes reference to rape, sexual assault or disfigurement (Q15).

Key themes emerging across this chapter questions included:

- The need for legislation to deal with the impact of misogyny and misogynistic communications, particularly as this type of behaviour is perceived to have increased a lot in recent years.
- There was a perception that increased resources would be needed if new legislation is introduced.
- In considering the proposed defences to the offence (Q18), there was support for the defence of 'reasonableness' but less support for 'improbability'.

- Views on the proposed maximum penalty of 5 years for this offence were mixed, although there were some calls for this to be in line with penalties for existing and similar offences such as threatening or abusive behaviour.

A new statutory aggravation relating to misogyny (Qs 21-25)

- Around two in three respondents supported the recommendation in Baroness Kennedy's report that there should be a statutory sentencing aggravation concerning misogyny (Q21).
- Over half of respondents agreed with the approach contained in the draft provision that an offence is aggravated in the two specified situations (Q22).
- Over half of respondents agreed with the Working Group's recommendation that the statutory aggravation should not be capable of being labelled for certain offences because these offences are inherently misogynistic, and this would already be taken account of when sentencing the offender (Q23).

Key themes emerging across these questions included:

- The statutory aggravation allows for misogynistic motivation to be reflected in sentencing.
- The statutory aggravation will provide extra protection and safety for women.
- However, some respondents felt the recommendation is sexist in that it discriminates or fails to protect men or people who are not women. Requests were made to add protections for men or other non-women.
- The wording of the two situations met with general approval; the introduction of 'contempt' was welcomed by some while others preferred the use of 'prejudice'. The use of 'ill-will' and 'malice' was criticised by some respondents.
- There was support for the view that certain offences are inherently misogynistic. The list of the offences in respect of which the misogyny aggravation cannot be labelled met with general agreement.
- However, there was some scepticism about misogyny always being taken into account when sentencing an offender.

An offence of stirring up hatred against women and girls (Qs 26-29)

- Around two in three respondents supported the report's recommendation that there should be an offence of stirring up hatred of women and girls (Q26).
- Almost three in four respondents agreed with the report's recommendation that the offence should be committed where a person behaves in a threatening or abusive manner or communicates threatening or abusive material, with the intention of stirring up hatred of women and girls (Q27).

Key themes emerging across these questions included:

- There was agreement that it was important to recognise the stirring up of hatred as an offence in law as this is not covered by existing criminal law.
- Some respondents felt that stirring up hatred can be an aggravating factor which can lead to more serious incidents and behaviour.

- Concerns were raised over a perceived rise in online hatred of women and girls, and the rise of incel groups and culture. Those who supported the offence thought it should be used to prosecute behaviour of this kind.
- However, some respondents felt the offence would be sexist or discriminatory unless there were similar protections put in place for men and boys. There were suggestions for a more general offence of 'sexist stirring up of hatred'.
- Some concerns were voiced about the terminology of 'stirring up hatred' being too vague.
- There was support for the view that sending threatening or abusive communications and material which is intended to stir up hatred of women and girls should have consequences.
- Demonstration of 'intent' was seen as vital in constituting the offence; however defining and proving 'intent' was seen as problematic.
- There was general agreement that the proposed approach will protect freedom of expression. There were calls for a fair and reasonable balance between freedom of expression and preventing hatred.
- However, some respondents voiced concerns about freedom of expression being used as an excuse or defence for abuse and stirring up hatred.

Impact assessments (Qs 30-37)

Key themes emerging across these questions included:

- Positive impacts were foreseen on women's and girls' human rights, and women's and girls' equalities. It was thought the proposals would strengthen their protection.
- But negative impacts were foreseen on men's and boys' human rights and equalities, due to an advantage being created for one demographic only, resulting in discrimination.
- The importance of upholding human rights, equalities and other obligations was reinforced. There were some concerns that the proposals could breach some regulations and conventions.
- Fears were expressed about negative impacts on freedom of expression (e.g. limitations on expressing opinions).
- Sex, gender and their relationship or classification with regard to the protected characteristics and the proposals was a focus for discussion, with varied viewpoints on this.
- Positive impacts were foreseen on women socio-economically speaking, though there was some concern over impacts on lower socio-economic groupings, particularly over policing and lack of access to justice and the law; the latter point was also raised in relation to island communities.
- In general, island communities were otherwise seen to be impacted in the same ways as all others by the proposals.
- Positive impacts were foreseen on workplace culture, particularly with regard to women's safety at work.

- Some concerns were raised about the work necessitated for training and HR policy renewal and also fears about misplaced or false misogynistic accusations in the workplace. Some industry sectors were the subject of specific concerns.
- Few impacts were foreseen on privacy and data protection, or on the environment.
- There were some calls for the proposals to be implemented in concert with education to produce cultural change.
- With all impact assessments, it was felt that much would depend on how the legislation is implemented in practice.

Introduction

Background

1. Misogyny can be defined as ‘prejudice, malice and / or contempt for women¹’ and covers a wide range of behaviour. In general, the law operates from a basis of neutrality so that laws are available to both men and women. However, given that there are particular types of behaviour which target women, there have been suggestions that the harmful effects of misogyny mean that women and girls require new protection through the criminal law.
2. In February 2021, the Scottish Government established an Independent Working Group on Misogyny and Criminal Justice in Scotland, chaired by Baroness Helena Kennedy KC. The Working Group was tasked with considering how the Scottish criminal justice system deals with misogyny, including looking at whether there are gaps in the law that could be addressed by a specific criminal offence to tackle such behaviour. The Working Group was also asked to consider whether the statutory aggravation by prejudice and/or stirring up of hatred offence contained in the Hate Crime and Public Order (Scotland) Act 2021 should be extended to the characteristic of ‘sex’.
3. The Working Group first sought to agree a working definition of misogyny to inform its work. The definition agreed was:

“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 rape, sexual offences, harassment and bullying, and domestic abuse.”

4. The Working Group published its final report in March 2022. It recommended the creation of what is described as ‘gendered law’ which is specifically intended to protect women and girls. The report’s specific recommendations for reform of the criminal law were:
 - A new statutory aggravation related to misogynistic behaviour where a crime such as assault, criminal damage/vandalism or threatening or abusive behaviour is aggravated by misogyny.
 - A new offence of stirring up hatred against women.
 - A new offence of public misogynistic harassment of women.
 - A new offence of issuing threats of, or invoking, rape or sexual assault or disfigurement of women and girls online and offline.

¹ Misogyny – A Human Rights Issue - Baroness Helena Kennedy QC

5. The report recommended that, in keeping with the position that gendered law is required to address misogyny, the characteristic of 'sex' should not be added to the Hate Crime and Public Order (Scotland) Act 2021. The report's recommendations were considered and the Scottish Government (SG) proposed five new criminal laws in response to these recommendations.
6. In considering the report's recommendation, the Scottish Government came to the view that the offence of 'public misogynistic harassment' sought to criminalise two quite different forms of behaviour.
7. The first can best be described as misogynistic harassment. That is to say misogynistic behaviour that is directed at a specific woman or girl, or group of women or girls, which amounts to harassment of that woman or girl, or group of women or girls.
8. The second type of behaviour which the report considered should be covered by their proposed offence can be described as misogynistic behaviour which is not necessarily directed at any particular identifiable victim or group of victims.
9. The Scottish Government considered that these two types of behaviour are sufficiently different that the working group's recommendation for an offence of 'public misogynistic harassment' could best be implemented by the creation of two distinct offences: an offence of misogynistic harassment and one of misogynistic behaviour.
10. Subsequently, on 8 March 2023, the Scottish Government launched a public consultation² to seek views on draft legislative provisions which give effect to the recommendation for criminal law reform contained in the final report of the Working Group. The consultation closed on 23 June 2023 and a total of 248 responses were received. The five new proposed criminal laws being consulted on were:
 - **An offence of misogynistic harassment:** this would make it a criminal offence for a person to behave in a way that amounted to misogynistic harassment directed at a woman or girl or group of women or girls.
 - **An offence of misogynistic behaviour:** intended to deal with misogynistic behaviour which is likely to have the effect of causing a woman or girl to experience fear, alarm, degradation, humiliation or distress where that behaviour is not directed at a specific woman or girl (or group of women and girls) and so could not be described as 'harassment'.

² <https://www.gov.scot/publications/reforming-criminal-law-address-misogyny-scottish-government-consultation/>

- **A statutory aggravation concerning misogyny:** this would be used where an offence had a misogynistic motive or a person demonstrated misogyny whilst committing a crime. The statutory aggravation would ensure that this motive is recorded and taken into account when sentencing.
 - **An offence of threatening or abusive communications to women or girls that reference rape, sexual assault or disfigurement:** this offence criminalises sending an abusive message to a woman or girl that refers to rape, sexual assault or disfigurement.
 - **An offence of stirring up hatred against women and girls:** this offence is concerned with the effect that the behaviour may be likely to have on the people in whom the perpetrator is seeking to stir up hatred of women and girls.
11. Findings from this consultation analysis will be used to help the Scottish Government take forward a Bill on misogyny and the criminal law in this Parliamentary session. The timing of the introduction of the final Bill will be considered as part of wider legislative planning.

Respondent Profile

12. In total, after removing any blank and duplicate responses, there were 243 responses to the consultation paper, of which 43 were from organisations and 200 from individuals. A breakdown of responses is provided in the following table. As can be seen, the highest number of organisation responses were submitted by women's organisations, followed by those in the equalities sector (10 responses), justice / legal (6) and third sector (2).

Table 1: Respondent Groups

Respondent	Number
Total organisations	43
Equalities	10
Justice / Legal	6
Third Sector	2
Women's Organisations	16
Other	9
Total Individuals	200
Total respondents	243

13. A list of all those organisations that submitted a response to the consultation and agreed to have their name published is included in Appendix 1.

Methodology

14. Responses to the consultation were submitted using the Scottish Government consultation platform Citizen Space, by email or by post; most respondents submitted their views via Citizen Space. Where responses were submitted in email or hard copy, these were entered manually onto the Citizen Space system to create a complete database of responses.
15. The number responding at each question is not always the same as the number presented in the respondent group table. This is because not all respondents addressed all questions. This report indicates the number of respondents who commented at each question. Additionally, some organisational responses were ambivalent or did not offer a definitive view on specific proposals. In some instances, they noted pros and cons for a specific proposal and thus sometimes opted not to answer a yes / no question with a definitive answer.
16. The researchers examined all comments made by respondents and noted the range of issues mentioned in responses, including reasons for opinions, specific examples or explanations, alternative suggestions or other comments. Grouping these issues together into similar themes allowed the researchers to identify whether any particular theme was specific to any particular respondent group or groups.
17. When referring to respondents who made particular comments, the terms 'a small number', 'a few' and so on have been used. While the analysis was qualitative in nature, as a very general rule of thumb it can be assumed that: 'a small number' indicates up to around 6 respondents; 'a few' indicates around 7 to 9; a minority refers to 10 or more but less than half the respondents; and a majority refers to over half the respondents.
18. When considering group differences however, it must also be recognised that where a specific opinion has been identified in relation to a particular group or groups, this does not indicate that other groups did not share this opinion, but rather that they simply did not comment on that particular point.

Analysis of responses

19. The analysis of responses is presented in the following chapters which follow the order of the questions raised in the consultation paper. While the consultation gave all who wished to comment an opportunity to do so, given the self-selecting nature of this type of exercise, any figures quoted here cannot be extrapolated to a wider population outwith the respondent sample.

20. The Citizen Space database was exported to an Excel working database for detailed analysis. Where respondents requested anonymity and / or confidentiality, their views have been taken into account in the analysis but quotations have not been taken from their responses. Quotations have been included where they illustrate a point of view clearly and have been selected across the range of respondent sub-groups.
21. Throughout responses, some respondents referred to personal experience of misogyny. In order to retain anonymity for these respondents, we have not made specific reference to any individual personal information.
22. Some respondents provided commentary on a specific question in their response to another question. Where this has occurred, responses have been moved to the relevant question to avoid duplication.
23. During the consultation, respondents were asked to give some personal information such as their name and email address, although they were not asked to state their gender at any point. In order to enhance the consultation analysis, where possible, the researchers applied a male / female gender to respondents in order to ascertain whether there were any differences in attitude between these two groups. This classification was based on information provided by respondents within their response and / or based on the name of each respondent. Where the gender of each respondent was not obvious (e.g. the name 'Alex'), no gender was applied to this respondent. This additional information has shown that throughout the consultation, male respondents tended to be less supportive of the proposed legislation than their female counterparts and more concerned about the need for gender-neutral legislation.

An Offence of Public Misogynistic Harassment

Key Findings

Across the questions asked in this chapter, the same issues tended to emerge repeatedly.

- There was majority support – around three in four respondents – for the proposal to create an offence of misogynistic harassment (Q1), around three in four agreed that the offence of misogynistic harassment should be capable of being committed in all places (Q3) and nearly half of respondents agreed with the inclusion of a reasonableness defence to the offence of misogynistic harassment (Q5).

Key themes emerging across these questions included:

- Some calls to recognise and address misogynistic harassment and create better safety and protection for women and girls.
- Views that the introduction of an offence of misogynistic harassment would help to send a clear message about the seriousness of this offence.
- There were some calls for clarity in definitions and how this offence would sit alongside existing legislation such as the Hate Crime and Public Order Act.
- There were concerns over how to prove this offence.
- A key opposition to this new proposed offence was the view that this type of offence is already covered by existing legislation. Smaller numbers of respondents also held the view that the proposed legislation is against the existing Equality Act (Scotland) 2010 or the Human Rights Act 1998.
- Some respondents felt any new legislation should be gender-neutral or that a new offence of harassment against men and boys would need to be introduced to sit alongside the new offence of misogynistic harassment.
- There was support for the list of effects on the victim.
- A minority of respondents supported a maximum penalty of 7 years imprisonment for the offence of misogynistic harassment, albeit there were calls for the penalty to relate to the severity of the offence.
- A reasonableness defence was seen to provide a safeguard for ensuring any legislation is not abused, albeit there were a few concerns over how this could be proved.
- Alongside legislative proposals, there were some calls for non-legislative approaches to be adopted, either to sit alongside new legislation or instead of new legislation. These approaches could include education within the curriculum, restorative justice approaches or public education campaigns. There were also some calls for guidance and training for professionals within the criminal justice sector as well as some suggestions for fixed penalty notices to be issued as are currently given to speeding drivers.

24. The consultation paper noted that the offence recommended in the report was seeking to criminalise two quite different forms of behaviour. The first could be described as 'misogynistic harassment'; i.e. behaviour that is directed at a specific woman or girl, or group of women or girls, which amounts to harassment of that woman or girl, or group of women or girls. The second type of behaviour could be described as misogynistic behaviour which is not necessarily directed at any particularly identifiable victim or group of victims. It was felt that these two types of behaviour are sufficiently different that the working group's recommendation for an offence of 'public misogynistic harassment' could best be implemented by the creation of two distinct offences: one of misogynistic harassment and one of misogynistic behaviour. This would allow for better clarity as to the conduct being criminalised through the structure of each offence and for any statutory defences that might be required to be appropriately tailored to the specific conduct that each offence is intended to criminalise.
25. The consultation paper proposed that the structure of the offence of misogynistic harassment would be similar to that used for existing offences such as stalking at Section 39 of the Criminal Justice and Licensing (Scotland) Act 2010 and abuse of a partner or ex-partner at section 1 of the Domestic Abuse (Scotland) Act 2018. It set out a five-part test for when the offence of misogynistic harassment would be committed. These were:
- Behaviour in a manner that is threatening, sexual or abusive (or a combination of these things).
 - The behaviour is directed at a particular person or group of people.
 - The behaviour is so directed at that person or group of people by reason of their being, or one or more members of the group being, or presumed to be, a woman or girl.
 - A reasonable person would consider that the behaviour would be likely to have the effect of causing the person or a member of the group to suffer fear, alarm, degradation, humiliation or distress.
 - The accused either intends their behaviour to have one of these effects under requirement four, or else is reckless as to whether their behaviour is likely to have one or more of these effects under requirement four on that person (there is not a requirement that the behaviour must actually have this effect).

The proposal to create an offence of misogynistic harassment

Q1: Do you support the proposal to create an offence of ‘misogynistic harassment’ which relates to harassment of an identified victim or victims?

26. As shown in the following table, of those who responded to question one, there was a high level of support for the proposal to create an offence of ‘misogynistic harassment’ (around three in four respondents supported this proposal compared to less than one in five who did not). All organisations providing a response supported the creation of this offence, and the only opposition came from individuals. Across the sub-groups used in analysis, there was little by way of differences.

Q1	Support	Do not support	Other	Not answered
Organisations (43)	31 (72%)	-	7 (16%)	5 (12%)
Equalities (10)	7 (70%)	-	2 (20%)	1 (10%)
Justice / Legal (6)	3 (50%)	-	1 (17%)	2 (33%)
Third Sector (2)	2 (100%)	-	-	-
Women’s Organisations (16)	11 (69%)	-	4 (25%)	1 (6%)
Other (9)	8 (89%)	-	-	1 (11%)
Total individuals (200)	143 (71%)	40 (20%)	14 (7%)	3 (2%)
Total respondents (243)	174 (72%)	40 (16%)	21 (9%)	8 (3%)

27. A total of 159 respondents went on to give reasons for their answer or to make further comments at this question. A small minority of these respondents noted they had personal experience of misogynistic harassment.

Support for the proposed offence

28. Of those who supported the creation of an offence of misogynistic harassment, a minority of mostly individuals noted that this is long overdue or that there is a need to recognise and address this type of behaviour. A similar number of respondents across most sub-groups also commented that this will offer better safety and protection for women and girls, with one women’s organisation commenting that the laws we currently have do not address this range of complex behaviours. There was an acknowledgement from many that the male harassment of women is particularly common and prevalent and the offence is needed to offer support to women.

29. A minority of respondents – across all sub-groups – also commented that this will help to send a clear message about the seriousness of this offence, that it offers a clear legal avenue in which to report misogynistic harassment and that this in turn will help to bring about a change in culture and attitudes. Linked to this issue, there were a few comments on the need to shift deeply rooted misogynistic attitudes and, that while a new offence is welcomed, there is also a need to address this issue through other non-legislative channels such as the education system. Alongside the importance of reducing misogynistic harassment through education, an equalities organisation also noted that there will need to be a stratified approach that includes public education campaigns and training for justice system staff.

Concerns over the introduction of this offence

30. While there were high levels of support for the introduction of this offence, a minority of respondents noted concerns over some details of the proposed offence. Key was that there needs to be more clarity over what constitutes misogynistic harassment or that this offence may be difficult to prove. A small number of organisations – mostly in the equalities sub-group – commented on the need for culture change within the police force so that women feel they can engage with the police in reporting this kind of crime. A women's organisation noted concerns that women tend to be marginalised by the criminal justice system when attempting to take abusers to court because, in their view, the system facilitates and maintains gender stereotypes and inequalities.
31. Sitting alongside this issue, a very small number of organisations suggested the need for a clear set of guidelines as to what types of behaviour would constitute misogynistic behaviour. An example provided by a women's organisation was that the criminal justice system regards harassment as behaviours that happen more than once, but the proposed offence would need to indicate that a single incident could constitute misogynistic harassment.

Opposition to the creation of this offence

32. The key issue raised by respondents who were not in favour of this offence being introduced was that in their view, this type of offence is already covered by existing legislation and there is no need to introduce a new offence of misogynistic harassment.
33. A minority of respondents commented that men should have equal protection under the law and that the new offence should be gender neutral or that an offence of harassment against men and boys should be created to sit alongside it. While respondents were not asked to state their gender, it appears from the names of consultation responses that more respondents who took this view were male than female. A small number of respondents commented that all legal and criminal frameworks should be gender

inclusive and that this is an essential principle of jurisprudence and good governance.

34. Small numbers of respondents also commented on whom this offence should include, although there was no consistency on this issue. Small numbers of respondents referred to trans women, to biological women or trans-identified females but not trans-identified men.
35. A few respondents perceived that the new offence would be unlawful and cited Article 14 of the Human Rights Act 1998 which does not allow discrimination on the grounds of sex. Another respondent perceived that the Equality Act (Scotland) 2010 notes that sex is a protected characteristic and that creating a new gendered law would be illegal.
36. Alongside this, there were a small number of comments from respondents in women's organisations and the equalities sector that there needs to be greater clarity on how this offence would sit alongside existing legislation such as the Hate Crime and Public Order Act. Two individuals referred to the need for a revised approach to reflect the 'Equally Safe' agenda.

Q2: Do you have any comments on the list of effects on the victim (fear, alarm, degradation, humiliation and distress) that trigger the offence being committed?

Support for the list of effects

37. A total of 120 respondents commented at this question. The key theme, from a minority of respondents across all sub-groups, was agreement with this list of effects, and a few of these respondents also noted their support for the 'reasonable person test'. One equalities organisation noted the list is appropriate as it acknowledges the existence of power imbalances in offending behaviour and consolidates various tests from other areas of legislation such as the Domestic Abuse (Scotland) Act 2018 and the Sexual Offences (Scotland) Act 2009. Another equalities organisation welcomed the shift away from focusing on women as victims to focusing on men who carry out these crimes as this ensures the proof of burden does not lie with the woman but focuses on the actions of the perpetrator.

38. An organisation in the 'other' sub-group commented:

"We welcome the longer list of effects on the victim as an important step to recognise in law the horrendous effects that misogynistic harassment can have on women. The Government has taken care to understand the experiences described by women and we commend them for this."

39. Once again, there were a few calls for greater clarity and guidance and training for professionals in the criminal justice sector so they properly

understand the effects of misogynistic harassment. A women's organisation suggested that a better approach would be to pattern this new offence after the Domestic Abuse (Scotland) Act 2018 by establishing a non-exhaustive list of effects and to use a test of whether a reasonable person would think the behaviour in question was reckless about causing harm.

Opposition to the list of effects

40. Of those opposed to this list – mostly individuals – a minority felt these were too subjective in nature and / or could be very difficult to prove. A few individuals also felt these could be open to misinterpretation and lead to false accusations. A very small number of respondents commented that each of these effects could have different impacts on different people.

Additional effects to be included

41. A minority of respondents, across all sub-groups, provided additional effects that they felt should be considered. These included:

- Confusion.
- Anger.
- Deliberate taunting.
- Fear for safety / feeling uneasy / feeling threatened.
- Intimidation.
- Potential to create lasting impacts such as PTSD or depression.
- Changing of routines such as moving job, not using public transport or any other form of behaviour change.
- Low self-esteem / sense of helplessness.
- Self-isolation.
- Low level and ongoing anxiety.

Should the offence be restricted to public places?

42. Baroness Kennedy's report recommended that the offence should be committed where the behaviour is 'public'. However, the Scottish Government noted that the distinction as to what might be a 'private' or 'public' space is blurred and recommended that the offence of misogynistic harassment should be capable of being committed in all places, with no distinction between what might be described as public or private spaces.

Q3: Do you agree that the offence of misogynistic harassment should be capable of being committed in all places?

43. As shown in the following table, around three in four respondents across all sub-groups agreed that the offence should be capable of being committed in all places. No organisations disagreed with this proposal.

Q3	Agree	Disagree	Other	Not Answered
Organisations (43)	32 (74%)	-	5 (12%)	6 (14%)
Equalities (10)	5 (50%)	-	2 (20%)	3 (30%)
Justice / Legal (6)	3 (50%)	-	1 (17%)	2 (33%)
Third Sector (2)	2 (100%)	-	-	-
Women's Organisations (16)	13 (81%)	-	2 (13%)	1 (6%)
Other (9)	9 (100%)	-	-	-
Total individuals (200)	140 (70%)	42 (21%)	11 (6%)	7 (4%)
Total respondents (243)	172 (71%)	42 (17%)	16 (7%)	13 (5%)

44. A total of 132 respondents provided additional comments in support of their response to question 3.

Support for the view that misogynistic harassment can be committed in all places

45. A majority of respondents, across all sub-groups, commented that this type of offence can happen anywhere so there is a need for a law that will ensure that women are protected from misogynistic harassment in all private and public spaces; i.e. that misogynistic harassment should be an offence wherever it occurs. There were a few comments that misogynistic harassment can be more threatening in private spaces. An organisation in the 'other' sub-group reflecting the views expressed by respondents, noted:

"The specification of all places also offers greater protections for workers who may experience such behaviour in their workplace or via a work colleague who is using a private device to commit the offence of misogynistic harassment of them. With the removal of the need to define whether the offence was committed in a public or private space, the worker who has suffered the harassment will be covered and the perpetrator can be prosecuted for the offence of misogynistic harassment."

46. A minority of respondents, across all sub-groups, made specific reference to online places, and some noted that some of the worst misogynistic harassment can happen online or in private messages and emails. A small number of respondents also noted that the prevalence of misogynistic harassment online is increasing and becoming much more widespread.

47. A few respondents also outlined additional locations that need to be included in any new legislation. These included:

- Workplaces, some of which might be a mixture of public and private spaces.
- Public transport.
- Sporting environments.
- Treatment rooms / NHS services.

Disagreement with the view that misogynistic harassment can be committed in all places

48. Of the individuals who did not agree that misogynistic harassment should be capable of being committed in all places, a few commented that private homes should remain private, that people are entitled to freedom of speech in their own homes and individuals should not have to fear any repercussions over what they might say in their own home. While respondents had not been asked to provide their gender, it appears from the names of consultation respondents that more of these were male than female.

49. A small number of individuals also thought this offence breaches the Equality Act and Article 14 of the European Convention of Human Rights (ECHR).

Concerns

50. A minority of respondents outlined concerns with this proposal. Key was how this offence would be proved to have been committed, particularly in private spaces. Allied to this, there were some comments of the difficulties in evidencing the harassment and / or how challenging it would be to police and enforce this offence. Once again, there were a small number of references on the need for clarity as to how this offence will be set out to apply to all public and private spaces, or how this offence would interact with other offences such as domestic abuse, sexual abuse or rape. As noted by an equalities organisation:

“We question whether the offence should be extended to both public and private spaces as considered in the consultation questions. It is unclear to us that there exists a gap in domestic abuse and sexual crime laws in relation to misogynistic harassment in the home, and we do not believe that there should be any encouragement to label certain behaviours misogynistic harassment when they are more rightly covered by domestic abuse legislation.”

51. A small number of individuals noted concerns that this could lead to people being prosecuted for a private conversation that is overheard or that people are entitled to have “horrible views” in their own private spaces.

Penalties – section 1(6)

52. The consultation paper commented that the maximum recommended penalty for the proposed offence of public misogynistic harassment should be 7 years imprisonment on conviction of the indictment.

Q4: Do you have any views on the proposed maximum penalty of 7 years imprisonment for the offence of misogynistic harassment?

53. A total of 143 respondents, across all sub-groups, answered this question. When reading the following paragraphs it needs to be borne in mind that the consultation paper did not fully represent the views expressed in Baroness Kennedy's report. This was acknowledged by a small number of organisations, mostly in the equalities sector, which commented that the report did not set out a proposed maximum penalty for the specific offence of public misogynistic harassment; rather the report recommended that misogynistic harassment should be a summary offence which would generally result in a fine and with a maximum of a 12 month custodial sentence. Baroness Kennedy's report noted:

"Public Misogynistic Harassment should be a summary offence. While in the spectrum of offending this is not the most serious of conduct, its impact must not be seen as negligible. The response may often be fines, orders requiring Misogynistic Abuse Awareness Training or alternative resolutions. But there may be circumstances where a custodial sentence is appropriate."

Agreement with a penalty of 7 years

54. A minority of respondents simply noted their agreement with a maximum penalty of 7 years imprisonment for the offence of misogynistic harassment. Comments included that this seemed fair, that the crime can cause high levels of distress, that it sends a clear message that misogynistic harassment will not be tolerated, and so on. A few respondents felt that 7 years was too short a period for serious offences or that 7 years might not be long enough for repeat or extreme offenders. A small number of organisations thought this would be in line with the offence of racially aggravated harassment at section 50A of the Criminal Law (Consolidation) (Scotland) Act 1995.
55. While generally being supportive of this penalty, a few respondents, across most sub-groups, suggested there needs to be variance in the possible sentence and that any sentence given should correspond to the severity of the harassment. One individual noted the need for a clearly defined scale of offences.
56. A benefit to the imposition of a sentence was also identified – mostly by individuals – in that this would act as a deterrent in that it would force men to give greater consideration to their behaviour.

57. A minority of respondents felt that a penalty of 7 years is too excessive; some of these respondents noted that any penalty imposed needs to be in line with other comparable crimes. For example, a women's organisation commented on the need for consistent and robust sentencing for all misogynistic offences, but that 7 years would be too punitive; and it would be preferable for any penalties to be in line with those imposed under Hate Crime legislation. An organisation in the justice / legal sector felt 7 years was too high without a clear rationale for this and that this type of offence has previously been dealt with under Common Law which does not have a maximum sentence. A few individuals queried how this penalty compared with other crimes such as rape.
58. A minority of respondents, across all sub-groups referred to the use of alternative approaches, either to sit alongside any penalty or to be used instead of a penalty. These alternatives included reform programmes, restorative justice and retraining; the example of offering speeding drivers a speeding awareness course that aims to change behaviour was provided. It was felt the main aim should be rehabilitation and reformation rather than a prison sentence, particularly as it was felt by some that the former would be more likely to change behaviour, while the latter option might not prevent future misogynistic harassment.
59. There were also some suggestions for public education campaigns and the need for attitudes and behaviour to be dealt with at an early age via schools and education. A small number of respondents also provided the example of France where fixed penalty notices are issued. Another benefit of these is that they are easier to administer and perceived to be a more appropriate sanction to apply. For some of these respondents prison was preferred as a last resort, particularly given the lack of available prison spaces and the cost of keeping someone in jail.
60. As at some previous questions, some respondents reiterated the need for guidance for sentencing and what variations in sentencing could be applied.
61. Overall, some respondents expressed the need for a fair balance between punishment and education, and a system that offers appropriate restorative practices that enable real change to be introduced.

Defences – section 2

62. The consultation paper outlined that as with the existing offences concerning stirring up hatred the SG has allowed for a defence to the offence of misogynistic harassment that the accused's actions were, in the particular circumstances, reasonable. A 'reasonableness' defence is provided for other offences which potentially cover many different kinds of behaviour, such as threatening or abusive behaviour, stalking and abuse of a partner or ex-partner, where it is not possible to exhaustively list all the

different ways that the offence might be capable of being committed. The consultation paper went on to note that the draft offence provides that there is an evidential burden placed on the accused to provide sufficient evidence to the court to raise an issue as to whether the defence is established.

Q5: Do you agree with the inclusion of a reasonableness defence to the offence of misogynistic harassment?

63. As shown in the following table, almost half of respondents across all sub-groups agreed with the inclusion of a reasonableness defence to the offence of misogynistic harassment, compared to around one in four who disagreed.

Q5	Agree	Disagree	Other	Not answered
Organisations (43)	19 (44%)	2 (5%)	10 (23%)	12 (28%)
Equalities (10)	4 (40%)	-	3 (30%)	3 (30%)
Justice / Legal (6)	2 (33%)	-	1 (17%)	3 (50%)
Third Sector (2)	1 (50%)	-	-	1 (50%)
Women's Organisations (16)	7 (44%)	1 (6%)	5 (31%)	3 (19%)
Other (9)	5 (56%)	1 (11%)	1 (11%)	2 (22%)
Total individuals (200)	96 (48%)	58 (29%)	32 (16%)	14 (7%)
Total respondents (243)	115 (47%)	60 (25%)	42 (17%)	26 (11%)

64. A total of 119 respondents then provided commentary in support of their initial response. Some of these commented that misogynistic harassment is not reasonable in any circumstances or that there can be no form of defence for misogynistic harassment.

Support for a 'reasonableness' defence

65. A key theme emerging in response to this question, across all sub-groups, was that everyone should have the right to defend their actions and this defence allows for justice to be seen to be done. A small minority of respondents – mostly organisations – also noted their agreement with Baroness Kennedy's report and its proposition that misogyny is widely tolerated and highly normalised, including within the criminal justice sector. As such, it was felt that it is important to ensure that training and guidance for criminal justice agencies is provided alongside any legislation, to avoid a situation where a 'reasonableness' defence can be used successfully

because misogynistic views are so widely held. Most of these respondents referred in general to staff within the criminal justice sector, although a small number referred to specific types of staff such as those working within the police force or those working in the criminal courts.

66. A few respondents – mostly organisations – felt that this defence would provide a safeguard for ensuring the legislation is not misused. As one equalities organisation commented, the defence of reasonableness will protect freedom of expression and provide a safeguard so that non-misogynistic harassment will not be caught up in the legislation. An organisation in the justice / legal sector felt this defence is in line with the approach taken for other similar statutory offences.
67. A small minority of respondents outlined concerns over how to determine what is 'reasonable' given that it could be seen as a relative term. Allied to this, a few respondents felt this could be difficult to prove.

Disagreement with a 'reasonableness' defence

68. Of those who disagreed with this defence, a few felt this would offer a loophole or 'get out of jail free' card, and that this defence would undermine any new legislation that is introduced. There were also a few comments that the legal system is based on the premise of 'innocent until proven guilty' and that this defence flies in the face of this premise.
69. Once again, there were some respondents who disagreed with this proposed legislation who held the view that this is contrary to ECHR and the Human Rights Act.

Additional comments

Q6: Do you have any other comments on the offence of misogynistic harassment?

70. A total of 105 respondents provided comments in response to this question, many of which echoed issues and points made at earlier questions. Key points made by respondents and which echoed earlier points raised included:
- Reference to personal experience of misogynistic harassment.
 - This would help as a deterrent to misogynistic harassment.
 - This would send a strong message that abusive behaviour towards women is unacceptable.
 - Support for the proposed legislation and general comments on the need to deal with misogynistic harassment.
 - The need for education and public information campaigns to sit alongside any new legislation, although a small number of respondents felt that education is more important than new legislation.
 - The need to offer restorative justice to counteract misogynistic harassment and bring about a change in attitudes.
 - The need for additional resources to enable implementation of new legislation.
 - The need for training and robust guidance for all individuals involved in the criminal justice system; these include police, the criminal courts and jurors.
 - Disagreement with the proposed legislation.
 - The view that this is covered by existing legislation; respondents cited equality legislation, sexual discrimination legislation and domestic abuse legislation.
 - The need for an equivalent offence of harassment whereby the victim was a man or boy.
 - The need for the law to be gender-neutral and equal for all.
 - The need for clear definitions and clarity so that any new legislation is comprehensive and understood by all involved in the criminal justice system.
71. Small numbers of respondents raised new or different issues. These included the need for mandatory collection and analysis of data to monitor and measure the legislation.
72. There were a very small number of concerns that the proposed legislation does not take account of the impact of intersecting forms of harassment experienced by marginalised women. For example, an equalities

organisation queried how new offences related to misogyny will work for women experiencing misogyny alongside other forms of prejudice such as racism or homophobia and how the proposed legislation would work alongside the Hate Crime and Public Order (Scotland) Act 2021.

73. A small number of equalities organisations noted a concern that some perpetrators may claim they did not commit the offence because they did not perceive the victim to be a woman or girl.

An Offence of Misogynistic Behaviour

Key Findings

Across the questions asked in this chapter, the same issues tended to emerge repeatedly.

- Over half the respondents supported the proposal to create an offence of misogynistic behaviour (Q7) and that the offence of misogynistic behaviour should be capable of being committed in both private and public places (Q9). Just under half of respondents agreed with the inclusion of a reasonableness defence to the offence of misogynistic behaviour (Q11) and over half agreed with the inclusion of a freedom of expression provision (Q12).

Key themes which emerged across these questions included:

- A need to recognise the existing culture of misogynistic behaviour and the damage it can cause to women and girls, even if the behaviour is not directed at a specific person.
- Suggestions for education, public awareness campaigns and restorative justice to be offered alongside any new offence.
- Suggestions for training and guidance to be provided for individuals within the criminal justice sector.
- Agreement with the inclusion of reasonableness and freedom of expression defences as they allow for justice to be done and ensure fairness within the criminal justice system, while allowing for reasonable discussion and debate around issues affecting women and girls. That said, a few respondents were opposed to these defences as it was felt these could be used as a loophole.
- Suggestions that freedom of expression needed to be considered in relation to artistic expression so as to ensure that artists and entertainers do not fall foul of the legislation.
- There was a perception from some that any new legislation introduced should be gender-neutral and / or there should be an equivalent offence of behaviour whereby the victim is a man or boy.
- The view that there is no need for new legislation as these offences are covered by existing legislation.
- There was general agreement with the list of effects that misogynistic behaviour can have on women and girls, although those who disagreed commented that these effects are subjective and could be difficult to prove.
- There was a perception from some respondents that misogynistic behaviour can be worse in private places than in public.
- Views that the penalty for this offence should be consistent with other similar offences and match the severity of the behaviour.
- There were some concerns that the offence would infringe the concept of freedom of speech.

74. The consultation paper explained that the offence of misogynistic behaviour is intended to criminalise misogynistic behaviour that is not directed at a particular person or group of people and can be seen as a 'public order' offence concerned specifically with misogynistic behaviour. The structure of this offence is similar to the existing offence of threatening or abusive behaviour at section 38 of the Criminal Justice and Licensing (Scotland) Act 2010. The paper went on to explain that there are four requirements for the offence to be committed. The first is that the accused must behave in a manner that is sexual or abusive. The second requirement is that the behaviour must either be motivated by contempt for, or malice and ill-will towards women and girls, or else that it is of a character such that a reasonable person would consider it to be contemptuous of women and girls. The third requirement is that the behaviour would be likely to cause a reasonable woman or girl to suffer fear, alarm, degradation, humiliation or distress. The fourth requirement is that the person either intends by their behaviour to cause one of the listed effects to a woman or girl, or that they are reckless as to whether their behaviour has that effect.

Support for creation of the offence of misogynistic behaviour

Q7: Do you support the proposal to create an offence of misogynistic behaviour which does not require that the behaviour is directed at a specific victim?

75. As the following table demonstrates, over half of respondents supported the proposal to create an offence of misogynistic behaviour which does not require that the behaviour is directed at a specific victim. This compares to around one in five who did not support the proposal. There was no opposition from organisations, although 48 individuals did not support the proposal.

Q7	Yes	No	Other	No answered
Organisations (43)	24 (56%)	-	6 (14%)	13 (30%)
Equalities (10)	4 (40%)	-	2 (20%)	4 (40%)
Justice / Legal (6)	2 (33%)	-	2 (33%)	2 (33%)
Third Sector (2)	2 (100%)	-	-	-
Women's Organisations (16)	10 (63%)	-	2 (13%)	4 (25%)
Other (9)	6 (67%)	-	-	3 (33%)
Total individuals (200)	130 (65%)	48 (24%)	4 (2%)	18 (9%)
Total respondents (243)	154 (63%)	48 (20%)	10 (4%)	31 (13%)

76. A total of 115 respondents, across all sub-groups, provided commentary in support of their initial response to this question. To a large extent, many of the comments made about the offence of misogynistic behaviour reflected comments in the previous part of this report about the offence of misogynistic harassment.

Support for the offence of misogynistic behaviour

77. A minority of respondents, across all sub-groups, noted the need to recognise the culture of misogynistic behaviour and the damage it can cause to women and girls. This included causing fear, distress and alarm, even if the behaviour is not directed at a specific person. As such, it is perhaps not surprising that there was a significant level of support for the creation of this offence. Once again, it was felt that this would help to bring about a change in attitudes and culture and make more people realise how unacceptable misogynistic behaviour is. While many respondents talked in general terms, there were a few specific references to online misogynistic behaviour.
78. Other points raised by respondents which were also cited in relation to the offence for misogynistic harassment included a reference to the need for education, public awareness campaigns, training and guidance. These non-legislative measures would sit alongside and complement the legislation.

Opposition to the offence of misogynistic behaviour

79. Of those who disagreed with this proposal, some felt that any new legislation that is introduced should be gender-neutral and aimed at all people, regardless of their gender. These respondents felt the new legislation as proposed is discriminatory against men.
80. A small number of respondents held the view that the proposed legislation is against the Equality Act, that it is unlawful under Article 8 of the Human Rights Act 1998 which refers to Respect for Private and Family Life or that it is unlawful under Article 14 of the ECHR. One organisation in the 'other' sub-group commented:

"We would, however, recommend that the Scottish Government take note of the UK Government response to recommendation 8 of the Law Commission's review of hate crime legislation published in April, particularly around the concerns over other VAWG (Violence against Woman and Girls) crimes not identified as criminally having misogynistic elements being socially perceived as 'less harmful' because of misogynistic behaviour not having been proven."

81. A small number of respondents also felt this would be an infringement on freedom of speech and freedom of thought.

Q8: Do you have any comments on the list of effects on the victim (fear, alarm, degradation, humiliation and distress) that trigger the offence being committed?

82. A total of 87 respondents commented on this question.
83. A key theme, from a minority of respondents across all sub-groups, was agreement with the list of effects that were provided in the consultation paper. Comments included that the list was comprehensive and appropriate, that it provides a wider scope of effects that represent the true nature of harm endured by women and girls, and that it is in keeping with the other offence of misogynistic harassment. Again, there were also references to the damaging impact that misogynistic behaviour can have on women and girls.
84. Of those who disagreed with the list of effects on the victim, a key issue was that these effects are subjective and difficult to prove. Additionally, it was suggested that women and girls will have different trigger points so that what one perceives to be misogynistic behaviour that causes distress will be disregarded by another. There were a few concerns that this could lead to vexatious claims that are not provable.
85. As at the previous question on misogynistic harassment, a minority of respondents outlined additional effects they felt should be included in any legislation. These included:
- Feeling unsafe.
 - Anxiety.
 - Intimidation.
 - Embarrassment.
 - Confusion.
 - Shame.
 - The impact of long-term effects such as PTSD.
 - The level of anger felt by the victim.
 - The perception of being silenced.
 - Leading to changed behaviour patterns.
86. A very small number of organisations – mostly in the equalities sub-group – commented that the ‘reasonable person test’ would need to be different as there is no specific victim. They commented:

“We note that since there is no specific victim in the case of the offence of Misogynistic Behaviour, that the reasonable person test is different – whether this behaviour would cause the listed effects in a reasonable person, rather than whether a reasonable person believes these actions could cause the listed effects

in a specific victim. This may change the nature of the actions that are prosecuted under the different parts of this legislation. For example, since the harassment offence considers the characteristics of the specific victim, conduct which would not cause fear, alarm, degradation, humiliation or distress to a hypothetical reasonable person might be deemed to cause these effects in that victim. This would change the conduct that is prosecuted under these different parts of the legislation.”

87. For this reason, another organisation in the equalities sub-group noted that this needs to be considered in the development of any guidance on this proposed offence.

Should the offence be restricted to public conduct?

88. The consultation paper noted that Baroness Kennedy’s report recommended that the offence should be committed where the behaviour is public. The expectation is that in the majority of cases, behaviour amounting to an offence under this section would be committed in a public place. However, it is possible that this kind of behaviour could occur in private places in circumstances where a criminal law response might be appropriate. An example would be misogynistic abuse occurring at a large party in someone’s home. In light of this, the proposal is that the offence of misogynistic behaviour should be capable of being committed in both private and public places.

Q9: Do you agree that the offence of misogynistic behaviour should be capable of being committed in both private and public places?

89. As the following table demonstrates, over half of those who responded agreed with the creation of this offence, compared to less than one in five who disagreed. All organisations who provided a definitive response agreed with the creation of this offence, although there was some opposition from individuals.

Q9	Yes	No	Other	Not answered
Organisations (43)	26 (60%)	-	4 (9%)	13 (30%)
Equalities (10)	4 (40%)	-	2 (20%)	4 (40%)
Justice / Legal (6)	3 (50%)	-	1 (17%)	2 (33%)
Third Sector (2)	2 (100%)	-	-	-
Women’s Organisations (16)	10 (63%)	-	1 (6%)	5 (31%)
Other (9)	7 (78%)	-	-	2 (22%)
Total individuals (200)	129 (65%)	41 (21%)	10 (5%)	20 (10%)
Total respondents (243)	155 (64%)	41 (17%)	14 (6%)	33 (14%)

90. A total of 89 respondents across all sub-groups, answered this question.

Support for the offence to be committed in public and private places

91. **A majority of those who supported this proposal noted that misogynistic behaviour can happen anywhere and that new legislation should cover all private and public areas.** Indeed, some of these respondents noted that misogynistic behaviour in private places can be more intimidating to women and girls, so it should be criminalised in all settings. Some of these respondents referred to specific places including workplaces, residential care, restaurants and so on.
92. A few respondents made specific reference to online misogynistic behaviour and the need to include this in any legislation, particularly as there has been growth in online misogynistic behaviour in recent years.
93. Once again, some respondents referred to the damaging impact of misogynistic behaviour.
94. As at previous questions, there were some concerns over the policing of private spaces or that this behaviour could be difficult to prove as well as being difficult to police.

Disagreement with the proposal

95. Of those who disagreed with this, there were some comments that private conversations should not be taken as misogynistic behaviour or that this is a 'draconian' intrusion into peoples' private lives.

Penalties – section 1(6)

96. The consultation paper noted that the maximum penalty for its proposed offence of public misogynistic harassment should be 7 years imprisonment on conviction on indictment.

Q10: Do you have any views on the proposed maximum penalty of 7 years imprisonment for the offence of misogynistic behaviour?

97. When reading the following paragraphs, it needs to be borne in mind that the consultation paper did not fully represent the views expressed in Baroness Kennedy's report. This was acknowledged by a small number of organisations, mostly in the equalities sector, which commented that Baroness Kennedy's report did not set out a proposed maximum penalty for the specific offence of public misogynistic behaviour but recommended that

misogynistic behaviour should be a summary offence which would generally result in a fine and with a maximum of a 12 month custodial sentence.

Support for the proposed maximum penalty

98. As with the previous question on misogynistic harassment, those who agreed with the maximum penalty of 7 years imprisonment expressed positive views on this being an appropriate or fair penalty. Some respondents – mainly individuals – felt this would act as a deterrent and sends a clear message about the unacceptable nature of this behaviour.
99. That said, a small number of respondents felt that this is a lesser offence than harassment as there is no specific victim, so the penalty should be lower to reflect that. Again, there were some comments that any sentence imposed should reflect the severity and impact of the crime.
100. In terms of the number of years for the penalty, some polarised views were expressed. A small minority of respondents felt that a maximum penalty of 7 years is not long enough, while others commented that this is too excessive and harsh.
101. There were also calls for alternative approaches including mandatory training, restorative justice and educational provision to combat attitudes and bring about cultural change. The use of fixed penalty fines as per driving offences was also suggested, with one individual commenting that this works well in France. Prison was felt to be a last resort by a small number of respondents.
102. If this legislation is to be introduced, a few respondents – mainly organisations – noted the **need for guidance for sentencing and variations in sentencing, or strict definitions of penalties.**

Opposition to the proposed maximum penalty

103. For those who were opposed to this penalty, once again, there were perceptions that this would be out of kilter with other International and UK legislation, against the Equality Act and Article 14 of ECHR. There were also a small number of comments that this would create an infringement of freedom of speech.
104. There were a significant number of references to the need for any penalty to be similar to, and consistent with, other offences. For example, a women's organisation commented that this penalty should be in line with Hate Crime legislation, while an individual felt that this penalty is disproportionate when compared to domestic abuse offences.

Defences – section 2

105. The consultation paper explained that as with the existing offences concerning stirring up hatred and the proposed offence of stirring up hatred against women, a defence is provided to the offence of misogynistic behaviour that the accused's actions were, in the particular circumstances, reasonable. This provision ensures that where someone behaves in an objectively reasonable way, but their behaviour nonetheless technically amounts to the commission of the offence of misogynistic behaviour, they are not criminalised by the offence.

Q11: Do you agree with the inclusion of a reasonableness defence to the offence of misogynistic behaviour?

106. As the following table demonstrates, of those who responded, just under half of respondents agreed with the inclusion of a reasonableness defence to the offence of misogynistic behaviour; this compared to around a quarter who disagreed.

Q11	Yes	No	Other	Not answered
Organisations (43)	14 (33%)	2 (5%)	7 (16%)	20 (47%)
Equalities (10)	5 (50%)	-	1 (10%)	4 (40%)
Justice / Legal (6)	1 (17%)	-	1 (17%)	4 (67%)
Third Sector (2)	1 (50%)	-	1 (50%)	-
Women's Organisations (16)	2 (13%)	1 (6%)	4 (25%)	9 (56%)
Other (9)	5 (56%)	1 (11%)	-	3 (33%)
Total individuals (200)	92 (46%)	56 (28%)	21 (11%)	31 (16%)
Total respondents (243)	106 (44%)	58 (24%)	28 (12%)	51 (21%)

107. A total of 90 respondents, across all sub-groups, provided commentary in support of their initial response to this question.

Support for a defence of reasonableness

108. A key theme emerging at this question was that the inclusion of a reasonableness defence allows for justice to be done and provides fairness. That said, a few respondents struggled to understand what might be considered as a reasonable defence for misogynistic harassment or that this defence may offer limited scope in practice.

109. A minority of respondents – mainly individuals – also noted that misogynistic behaviour is not reasonable under any circumstances.

110. A small number of organisations in the third sector, justice / legal and women's organisation sectors felt this was in line with the approach taken for other statutory offences that are similar and seeking to address violence against women and girls, such as the Domestic Abuse (Scotland) Act 2018.
111. A small number of respondents also felt it is good for the onus to be on the accused to prove the behaviour was reasonable. Conversely, a small number of respondents felt this is not based on the premise of 'innocent until proven guilty', and one individual felt that the Human Rights Act 1998 provides for all to have the right to a fair trial and a presumption of innocent until proven guilty. Furthermore, there were a few queries as to how a court would determine what is reasonable behaviour and that reasonableness is a relative term and can be open to interpretation.
112. As at previous questions a small minority of individuals disagreed with this legislation on the grounds that it is subjective, or perceived that it is illegal under ECHR and the Equality Act 2010, although little additional information was provided by these respondents.

Freedom of expression

113. The consultation paper noted that in keeping with the proposed offence of 'stirring up hatred against women and girls' which does not require behaviour which is targeted at a specific identifiable victim, provision has been made protecting freedom of expression reflecting the nature of the offence as not requiring to be targeted at a specific identifiable victim.

Q12: Do you agree with the inclusion of a freedom of expression provision setting out, for the avoidance of doubt, that certain behaviour does not constitute an offence of misogynistic behaviour?

114. As the following table demonstrates, a clear majority of respondents supported the inclusion of a freedom of expression provision. Around three times the number of respondents supported the inclusion of a provision setting out, for the avoidance of doubt, that certain behaviour does not constitute an offence of misogynistic behaviour as compared to those who opposed its inclusion. Of those who gave a 'yes' or 'no' response, almost all organisations and a significant majority of individuals agreed with the inclusion of a freedom of expression provision.

Q12	Yes	No	Other	Not answered
Organisations (43)	20 (47%)	1 (2%)	6 (14%)	16 (37%)
Equalities (10)	4 (40%)	-	1 (10%)	5 (50%)
Justice / Legal (6)	3 (50%)	-	-	3 (50%)
Third Sector (2)	1 (50%)	-	-	1 (50%)
Women's Organisations (16)	7 (44%)	-	5 (31%)	4 (25%)
Other (9)	5 (56%)	1 (11%)	-	3 (33%)
Total individuals (200)	116 (58%)	44 (22%)	18 (9%)	22 (11%)
Total respondents (243)	136 (56%)	45 (19%)	24 (10%)	38 (16%)

115. A total of 106 respondents then provided commentary in support of their initial response to this question.

Support for freedom of expression

116. A minority of those who responded to this question supported the inclusion of a 'freedom of expression' provision; for example, because this would allow reasonable discussion and debate around issues affecting women or that in a fair society it should be reasonable to discuss issues relating to women and girls without fear of censure. As one individual noted, having opinions on issues that affect women and girls does not necessarily constitute harassment or abuse. An equalities organisation commented that the purpose of the offence should not be to interfere with a person's ability to freely debate issues concerning or relating to women and girls.

117. A minority of respondents, across all sub-groups who were in agreement with the inclusion of a freedom of expression provision, noted some qualifications for their support. In the main, they pointed to the need for clarity over what constitutes 'abusive' and that free speech protections need to be expanded in law.

118. A woman's organisation commented that the Freedom of Expression provision will need to be tightly drafted to ensure genuine discussion and debate is covered by this; another that any provisions need to strike a careful balance between the aims of the legislation and the need to preserve freedom of speech. An equalities organisation commented that there is a need to consider the way in which views are expressed and the language and tone used, and only take action if there is evidence that the behaviour meets the requirements to be considered an offence.

119. The performing arts were singled out by a small minority of organisations across most sub-groups, in that they felt freedom of

expression needs to be considered in relation to artistic expression. An equalities organisation noted concern that the broadness of the offence could result in artists and entertainers falling foul of the legislation; and a women's organisation was keen to ensure the offence is robust enough that it could not be used to constrain areas such as artistic or sexual expression.

120. Overall, there was a perception that there should be freedom to discuss issues and criticisms of women's issues and that freedom of expression is an importance tenet of Scottish society and needs to be protected. As commented on by an equalities organisation:

"Freedom of expression, protected by Article 10 ECHR, extends to ideas that may shock, disturb or offend the deeply-held beliefs of others."

Disagreement with freedom of expression

121. Of the small minority who disagreed with the inclusion of a freedom of expression provision, the key comment was that this could be used as an excuse or that it would offer a get out clause for unacceptable behaviour.

Q13: Do you have any other comments on the offence of misogynistic behaviour?

122. Finally, in this chapter of the consultation, respondents were invited to provide any other comments they had on the offence of misogynistic behaviour and a total of 68 respondents did so.
123. To a large extent, respondents tended to reiterate points here that had been made to previous questions relating to misogynistic behaviour. While a minority noted their support for the proposed legislation and highlighted the damage that can be caused by misogynistic behaviour, small numbers also noted the need for clarity in some of the terms being used and again focused on the need to balance freedom of expression with the introduction of new legislation.
124. A small number of organisations noted the need for attitudinal change within the police force as existing or perceived police attitudes may currently present a barrier to reporting misogynistic crimes.
125. There were a small number of references to the language used, with requests for the term 'prejudice' to be used as it was felt this more accurately describes the misogyny that motivates behaviour that causes harm to women and girls. An equalities organisation noted their concern over the wording of 'motivated (wholly or partly) by contempt, or malice and ill-will towards women and girls' and felt this could be better worded by reference to whether 'prejudice and / or malice and / or contempt' as this more accurately describes misogynistic harassment and behaviour that causes harm to women and girls.

126. Other issues again raised by respondents included:

- Highlighting the need for non-legislative approaches such as programmes of education, restorative justice, public information campaigns.
- The need for increased funding and resources for organisations involved in the criminal justice system to allow them to implement the legislation.
- Any legislation should be gender-neutral and apply equally to men and women; or alternatively to have an equivalent law of harassment against men and boys.
- Calls for education programmes to bring about behavioural change, or for public awareness campaigns and guidance.
- A need for additional resourcing for the criminal justice system to be able to implement and enforce this legislation if it is introduced.
- A perception that this would be unlawful under Article 8 of the Human Rights Act 1998, the Equality Act and Article 14 of ECHR, as well as being discriminatory and sexist.
- A view that there is no need for this legislation as existing legislation covers these crimes. This should be the same as the Hate Crime and Public Order (Scotland) Act 2021 or the racially aggravated harassment at section 50 of the Criminal Law (Consolidation) (Scotland) Act 2021.

An offence of Issuing Threats of, or Invoking, Rape or Sexual Assault or Disfigurement of Women and Girls Online and Offline

Key Findings

Across the questions asked in this chapter, the same issues tended to emerge repeatedly.

- Over three in four respondents supported the proposals to create a specific offence of ‘threatening or abusive communications to women and girls which reference rape, sexual assault or disfigurement’ (Q14), and that the offence should be committed where a message is threatening or abusive, or both, and makes reference to rape, sexual assault or disfigurement (Q15).

Key themes emerging across this chapter questions included:

- The need for legislation to deal with the impact of misogyny and misogynistic communications, particularly as this type of behaviour is perceived to have increased a lot in recent years.
- The impact of this type of behaviour on the lives of women and girls.
- Views that any changes to legislation should be gender-neutral and offer equal protection to all people.
- A perception that legislation already exists which covers these offences.
- Increased resources would be needed if new legislation is introduced.
- There were some concerns over how this legislation would be enforced. Alongside this, there were calls for clear guidance for all staff in the criminal justice system.
- In considering the proposed defences to the offence (Q18), there was support for the defence of ‘reasonableness’ but less support for ‘improbability’.
- Views on the proposed maximum penalty of 5 years for this offence were mixed, although there were some calls for this to be in line with penalties for existing and similar offences.

127. The consultation paper noted that Baroness Kennedy’s report recommended making it a specific offence to issue threats of, or invoke, rape or sexual assault or disfigurement to women and girls. It also noted that while the majority of this conduct is likely to occur online, the offence should be capable of being committed both online and offline.

Q14: Do you support the proposal to create a specific offence of ‘threatening or abusive communications to women and girls which reference rape, sexual assault or disfigurement’?

128. As the following table demonstrates, around three in four respondents agreed with the proposal to create a specific offence of 'threatening or abusive communications to women and girls which reference rape, sexual assault or disfigurement'. This compares to only around one in ten who disagreed with this proposal. Of those who provided a 'yes' or 'no' response, almost all organisations agreed with the creation of this offence. Most disagreement came from individual respondents, although one organisation in the justice / legal sub-group did not agree.

Q14	Yes	No	Other	Not answered
Organisations (43)	28 (65%)	1 (2%)	4 (9%)	10 (23%)
Equalities (10)	5 (50%)	-	2 (20%)	3 (30%)
Justice / Legal (6)	2 (33%)	1 (17%)	-	3 (50%)
Third Sector (2)	1 (50%)	-	-	1 (50%)
Women's Organisations (16)	12 (75%)	-	2 (13%)	2 (13%)
Other (9)	8 (89%)	-	-	1 (11%)
Total individuals (200)	153 (77%)	25 (13%)	7 (4%)	15 (8%)
Total respondents (243)	181 (74%)	26 (11%)	11 (5%)	25 (10%)

129. A total of 112 respondents provided commentary in support of their initial response to this question.

130. A minority of respondents across all sub-groups noted that they believed this legislation is long overdue and vital to protect women from the impact of misogynistic communications, with some comment that this type of behaviour has been increasing in recent years. It was felt creation of this specific offence would help to provide greater levels of protection for women and girls. An equalities organisation commented that this type of behaviour can be difficult to challenge but has a significant impact.

131. The impact of this type of behaviour was noted by a minority of respondents, with references to how this type of threat can limit women's' lives by causing distress or making women and girls feel unsafe and threatened. There was also some reference to the psychological impacts of this type of behaviour.

132. A minority of respondents, again across all sub-groups, referred to different types of communication, with offline being referred to by a number of these respondents. The workplace and sporting areas were also mentioned by small numbers of respondents.

133. A small number of concerns were noted by respondents; for example, one individual noted that the definition was too broad and does not balance equally with the concept of freedom of speech. A women's organisation noted that some individuals who participate in this type of behaviour will be unknown to the individual at whom it is targeted and wondered how the law would tackle this anonymity.

When is the offence committed?

134. The consultation paper then noted that the draft provision gives effect to the Working Group's recommendation by criminalising the conveying of a message which is threatening, or abusive, or both and makes reference to rape, sexual assault, disfigurement, violence likely to result in disfigurement or a combination of these things.

Q15: Do you agree that the offence should be committed where a message is threatening or abusive, or both, and makes reference to rape, sexual assault or disfigurement?

135. As the following table demonstrates, of those who responded, around three in four respondents agreed that the offence should be committed where a message is threatening or abusive, or both, and makes reference to rape, sexual assault or disfigurement. Less than one in ten respondents disagreed with this.

Q15	Yes	No	Other	Not answered
Organisations (43)	26 (60%)	-	2 (5%)	15 (35%)
Equalities (10)	5 (50%)	-	1 (10%)	4 (40%)
Justice / Legal (6)	3 (50%)	-	-	3 (50%)
Third Sector (2)	-	-	-	2 (100%)
Women's Organisations (16)	11 (69%)	-	1 (6%)	4 (25%)
Other (9)	7 (78%)	-	-	2 (22%)
Total individuals (200)	154 (77%)	16 (8%)	13 (7%)	17 (9%)
Total respondents (243)	180 (74%)	16 (7%)	15 (6%)	32 (13%)

136. A total of 81 respondents provided commentary in support of their initial response to this question.

137. A number of respondents reiterated comments made to the previous question; and across all responses, the same themes emerged.

138. A minority of respondents who agreed with the proposed offence noted this offence is necessary to tackle specific types of behaviour, that this behaviour is unacceptable and needs to be addressed. A similar number of respondents also reiterated views on the negative impact of this type of behaviour, including causing fear and alarm, distress and psychological impacts.
139. A minority of mainly organisations specified particular elements of the proposed offence that they thought were positive. These included:
- Offering a helpful definition that avoids a perpetrator avoiding liability through the use of coded language.
 - Making the actions specific enough to hold someone accountable.
 - The approach makes clear that discussions referencing rape, sexual assault and disfigurement that are not threatening or abusive are exempted from this legislation and will thus not pose a threat to legitimate communications.
 - Agreement with the way the offence has been framed in that there is no need to prove the intention of the perpetrator.
 - Change from using the term ‘invoking’ to ‘makes reference to’ is a positive change.
140. There were a small number of concerns that this could be difficult to prove and enforce. One organisation in the justice / legal sector felt the draft provision is “very clumsy” and that it is not clear precisely what conduct is intended to be covered.

Comments on the approach taken

141. The consultation paper then noted the kinds of circumstances in which such abusive messages referencing rape, sexual assault and disfigurement of women and girls are sent are not limited to circumstances in which the message is sent directly to the victim. For example, a message can be posted on a website in circumstances where the person to whom the message relates is likely to see it or be made aware of its existence.
142. The consultation paper went on to explain that the offence does not define the terms ‘rape’, ‘sexual assault’ and ‘disfigurement’, as it is considered that courts will be able to determine whether an act that is referred to is one of rape or sexual assault. In terms of ‘disfigurement’ specifically, it is provided that the offence is committed both where the message refers directly to disfigurement and where it refers to violence likely to result in disfigurement.

Q16: Do you have any comments on the approach taken in the draft offence to the harms of rape, sexual assault and disfigurement?

143. A total of 55 respondents, across all sub-groups, answered this question, although these comments tended to reiterate issues raised earlier.

144. A minority of respondents noted their approval of the approach taken, with comments such as ‘this is well thought out’, and ‘the broader approach to framing the offence will allow for the legislation to be future-proofed’. It was also felt that the suggested approach is clear and conveys the purpose of the legislation well. Two equalities organisations commented that it is positive the approach taken recognises that messages may not be directly conveyed to a victim but posted publicly.

How the offence can be committed – section 1(1)-1(3)

Q17: Do you have any comments on the approach taken in the draft offence about the two different ways in which the offence can be committed?

145. A total of 57 respondents answered this question. The key theme was agreement with the approach, or different aspects of the approach as suggested, although many of these respondents added little else by way of detail. An equalities organisation commented:

“The approach seems to be an inclusive way of ensuring that the offence is enforced, and that the accused cannot use a defence of not having believed the victim to be a woman or girl if the recipient is, in fact, a woman or girl.”

146. A few respondents made suggestions for changes to wording. These included:

- Using the word ‘incite’ rather than ‘invoke’.
- Two equalities organisations suggested alternative wording for the offence introducing a requirement for the offender to be motivated by prejudice, contempt or malice and ill-will towards women or girls and suggested that would remove the requirement for the victim to prove they were a woman or girl.

147. As at previous questions, a minority referenced the need for the law to be gender-neutral, that this proposed offence may already be covered by existing legislation, that this offence is discriminatory against men or that this offence is an infringement of freedom of speech.

Defences – sections 2 and 3

148. The consultation paper noted that two defences are provided to the offence. The first is a defence of ‘reasonableness’ and the second is a defence of ‘improbability’.

Q18: Do you have any comments on the proposed defences to the offence?

149. A total of 69 respondents answered this question; a minority of these noted that there should not be a defence for the offence as this behaviour is never acceptable under any circumstances. Conversely, a similar number of respondents felt there is a need to allow defences so that the law can cover all eventualities and offer reasonable protections of free expression and private communication.

150. A minority of respondents noted their support for the defence of 'reasonableness' but not 'improbability'. This was primarily as the defence of reasonableness allows the forwarding of a threatening message in order to alert someone that a third party has made threats against them.

151. The defence of 'improbability' was seen to perpetuate the problem rather than solve it. Respondents felt the behaviour is still wrong and conveying messages to third parties is just as offensive as conveying the message directly to the person. A few respondents referred to recent instances within the Metropolitan police force as reasons as to why this defence should not be allowed. As noted by a women's organisation:

"The most recent exposure of text communications between serving officers in the Met Police serves as an example of where we are concerned such a defence could be exploited and we are keen to ensure, therefore, that any proposed defences are carefully examined in light of such examples to ensure they do not eviscerate the protections of this proposed legislation."

152. As at previous questions, there were also references to the need for clarity. In particular, if the defence of improbability is to be used, it would need to be tightly defined. There were also some concerns that these defences could create loopholes that could be abused by perpetrators of these crimes.

Q19: Do you have any comments on the proposed maximum penalty of 5 years imprisonment for the offence?

153. A total of 93 respondents answered this question, with a minority noting their support for this but offering little additional detail. Small numbers noted that this would help to act as a deterrent in that it reflects the severity of the impact and consequences of the crime.

154. While a few individuals felt the maximum penalty of 5 years was too excessive, a minority felt this should be higher. A few individuals suggested a maximum penalty of 7 years and a higher number suggested this penalty should be in line with the penalties for misogynistic harassment and behaviour. One or two of these respondents queried why there was no consistency across the different offences. Conversely, a small number of respondents felt this offence should carry a higher sentence than misogynistic harassment or behaviour on the grounds that rape / sexual

assault or disfigurement threats are worse than misogynistic harassment or behaviour.

155. A minority of individuals, across most sub-groups, felt this offence should be aligned with existing and similar offences, and a small number of respondents referred to the Hate Crime and Public Order (Scotland) Act 2021. That said, a small number of respondents in the equalities and justice / legal sub-groups commented that this proposed penalty is in line with other offences such as the maximum penalty for threatening or abusive behaviour on conviction on the indictment. A women's organisation suggested that anyone committing this offence should automatically be added to the sex offenders register.

156. There were also references from a few individuals that this proposed penalty is unrealistic, as they perceived there to be low sentencing given to some individuals who commit sexual offences such as rape.

Q20: Do you have any other comments on the proposed offence of threatening or abusive communications to women and girls that reference rape, sexual assault or disfigurement?

157. Finally, in this chapter of the consultation, respondents were given the opportunity to provide any other comments on this proposed offence; and 54 chose to do so.

158. In the main, respondents echoed their responses to earlier questions. A minority noted their support for this proposed offence but provided little else by way of detail. A few equalities organisations and individuals noted that there is a need for this offence to be all-inclusive and include transgender, individuals with learning disabilities and non-binary people who are perceived to be at a high risk of being victims of these crimes.

159. A small number of respondents wanted reassurances that this crime will be taken seriously by the criminal justice system, and that training, guidance and additional resourcing will be provided so that this offence can be properly implemented. A small number of organisations also pointed out the need for data collection so as to monitor the impact and effectiveness of the proposed offence.

160. As at previous questions, a number of other key themes cited by respondents included:

- Any changes should be gender-neutral and this should be an offence regardless of gender, with perceptions that otherwise this would translate to unequal protection under the law which is seen as unfair and not legal.

- A view that this offence is already covered by existing legislation such as section 127 of the Communications Act, and legal safeguards against this behaviour already exist. There were references to the Telecoms Act, section 126 of the Communications Act and Hate Crime. An organisation in the justice / legal sub-group commented that any new offence must be shown to be necessary and proportionate and for which current law does not offer an effective solution but that the proposed offence does not meet this parameter. Conversely, an organisation in the equalities sub-group noted that this proposed offence is important as it covers a type of abusive communication that is not covered by existing legislation.
- Increased resources would be needed to implement the proposed offence.
- Concerns over how difficult this offence would be to enforce and the need for proactive enforcement.
- Perceptions that this falls foul of the Equality Act.
- Should be gender-neutral.
- Will need to be accompanied by clear supporting guidance.
- The importance of non-legislative approaches to sit alongside legislative approaches so as to help bring about attitudinal and behaviour change and discourage repeat offending.

A new Statutory Aggravation relating to misogyny

Key Findings

Across the questions asked in this chapter, the same issues tended to emerge repeatedly.

- Around two in three respondents supported the recommendation in Baroness Kennedy's report that there should be a statutory sentencing aggravation concerning misogyny (Q21); around two in three agreed with the approach contained in the draft provision that an offence is aggravated in the two specified situations (Q22); and just over half agreed with the Working Group's recommendation that the statutory aggravation should not be capable of being labelled for certain offences because these offences are inherently misogynistic and this would already be taken account of when sentencing the offender (Q23).

Key themes emerging across these questions included:

- The statutory aggravation allows for misogynistic motivation to be reflected in sentencing.
- The statutory aggravation will provide extra protection and safety for women.
- However, some respondents felt the recommendation is sexist in that it discriminates or fails to protect men or people who are not women. Requests were made to add protections for men or other non-women.
- The wording of the two situations met with general approval; the introduction of 'contempt' was welcomed by some while others preferred the use of 'prejudice'. The use of 'ill-will' and 'malice' was criticised by some respondents.
- There was support for the view that certain offences are inherently misogynistic. The list of the offences in respect of which the misogyny aggravation cannot be labelled met with general agreement.
- However, there was some scepticism about misogyny always being taken into account when sentencing an offender.
- There is a need for non-legislative measures (e.g. education and training) to support a change in culture.

161. The Kennedy report recommended the creation of a new statutory aggravation relating to misogyny to enable a judge to take account of the misogynistic nature of the conduct when sentencing. It recommends that the aggravation should define misogyny as being 'prejudice, malice or contempt towards women'.

Q21: Do you support the recommendation in Baroness Kennedy's report that there should be a statutory aggravation concerning misogyny?

162. As shown in the following table, a majority – around two in three – agreed with the recommendation that there should be a statutory sentencing aggravation concerning misogyny. While respondents had not provided their gender, most of the those who disagreed comprised male respondents; no organisations disagreed.

Q21	Support	Do not support	Other	Not answered
Total organisations (43)	25 (58%)	-	7 (16%)	11 (26%)
Equalities (10)	5 (50%)	-	2 (20%)	3 (30%)
Justice / Legal (6)	3 (50%)	-	1 (17%)	2 (33%)
Third Sector (2)	1 (50%)	-	-	1 (50%)
Women's Organisation (16)	10 (63%)	-	3 ()	3
Other (9)	6	-	1	2
Total individuals (200)	125 (63%)	43 (22%)	9 (5%)	23 (12%)
Total respondents (243)	150 (62%)	43 (18%)	16 (7%)	34 (14%)

163. A total of 99 respondents went on to make further comments at this question. A minority reiterated their agreement at the first part of the question, mainly without expanding, with the largest minority stating that this allowed for misogynistic motivation to be reflected in sentencing, reinforcing that misogyny was a motivating factor to more serious crimes such as rape, sexual violence, stalking and vandalism.

Support for the Recommendation

164. Among the smaller numbers of other comments in favour of the recommendation, a few respondents advocated a need for protection from misogyny in the same way as that given for other characteristics. In this regard, it was put forward that it would be unjust not to recognise a statutory aggravation in relation to misogyny, given the law recognises a statutory aggravation in relation to other protected characteristics such as race or ethnicity. Similar numbers said they supported the stance that misogynistic behaviour will not be tolerated, perceiving that the aggravation will attract a greater sentencing penalty. Smaller numbers added that the aggravation would give extra protection for women and girls.

165. Smaller numbers pinpointed a need for misogyny to be recognised as an offence in law; it was perceived that making this explicit would provide clarity and comprehensiveness when defining the crime and reduce gaps in the law protecting women.

166. A small number of women's organisations commented positively about statutory aggravations not requiring corroboration, i.e. that a single source of evidence would be sufficient to establish this.

167. Further remarks in support of the recommendation, each made by very small numbers of respondents, consisted of the following:

- A statutory sentencing aggravation will enable the tracking of behaviour patterns to understand the growth and spread of misogyny, as well as its extent across offences.
- Positive comments about criminal offence provisions applying where the perpetrator perceives their victim to be a woman, irrespective of the victim's gender; conversely a couple of comments advocated for the aggravation to be applied to women defined by biological sex only (i.e. excluding trans women) and argued that it will not otherwise help safeguard women.
- Comments stating support for the aggravation in the context of human rights and equalities issues.
- Agreement that sex or gender should not be added as a protected characteristic for the purposes of aggravated offences in Hate Crime legislation, i.e. that misogyny needs to be tackled separately to prejudice suffered by other marginalised groups.

Disagreement with the Recommendation

168. Comments expressing disagreement with the recommendation were almost all made by individuals; a small number reiterated their opposition to a misogyny law being introduced altogether. A minority (it appears from the names of consultation respondents that more of these respondents were male than female) claimed that the recommendation was sexist in that it discriminates or fails to protect men or people who are not women, or a perception that it is contrary to gender equality legislation or the Human Rights Act. Similar numbers advocated for similar protections for men, with suggestions for the creation of an offence of harassment against men and boys; or made comments regarding perceived dangers to men, most notably in the context of prevention of free speech. There were also a few suggestions to initiate a general offence of sexist harassment incorporating wider coverage to provide equal protection to men and other non-women. An equalities organisation suggested revising the recommendation to read 'concerning hatred on grounds of sex or gender'. However, a very small number wanted the aggravation to be applied as a sex-based rather than a gender-based law.

169. A few respondents advocated the use of existing laws instead and held the view that current legislation covers all the points of the proposed bill, without explaining further. There were also a small number of calls for sex or

gender to be added as a characteristic to the Hate Crime Bill, or to take a gender-neutral approach in order to comply with equalities legislation.

170. Finally, a small number of respondents voiced concerns regarding the policing of the proposed aggravation, pointing out perceived current policing practices and a lack of clarity regarding the 'burden of proof' regarding offences.

The test for determining whether an offence is aggravated by misogyny – sections 1 (1)-1 (4)

171. The draft provision outlined that an offence is aggravated if the offender demonstrates contempt, or malice and ill will towards the victim.

Q22: Do you agree with the approach contained in the draft provision that an offence is aggravated in the following two situations; namely if:

- **the offender demonstrates contempt, or malice and ill will towards the victim and that is based on the victim being or being presumed by the offender to be a woman or girl; or**
- **whether or not there is a specific victim of the offence, the offence is motivated wholly or partly by contempt, or malice and ill will towards women and girls.**

172. As the following table shows, a majority – around six in ten – agreed that an offence is aggravated in the two specified situations. While respondents were not asked to state their gender, it appears from the names of consultation respondents that most of those who disagreed were male. Only one organisation disagreed.

Q22	Support	Do not support	Other	Not answered
Total organisations (43)	18 (42%)	1 (2%)	8 (19%)	16 (37%)
Equalities (10)	-	-	6 (60%)	4 (40%)
Justice / Legal (6)	2 (33%)	1 (17%)	1 (17%)	2 (33%)
Third Sector (2)	1 (50%)	-	-	1 (50%)
Women's Organisation (16)	8 (50%)	-	1 (6%)	7 (44%)
Other (9)	7 (78%)	-	-	2 (22%)
Total individuals (200)	126 (63%)	43 (22%)	8 (4%)	23 (12%)
Total respondents (243)	144 (59%)	44 (18%)	16 (7%)	39 (16%)

173. A total of 81 respondents went on to make further comments.

General Comments in Support of the Approach

174. A minority from across the spectrum of respondents cited support in mainly general terms. They stated this was important, that it was badly needed and voiced approval that the approach was detailed and comprehensive. A few respondents concurred that misogynistic behaviour was an aggravating factor which should be regarded as leading to more serious levels of crime, with similar numbers welcoming the stance that misogyny will not be tolerated and that the approach would help to reduce misogynistic views. Similar numbers reiterated the abhorrent aspects of misogyny and its effects on women's freedoms and working lives.

Comments about the Wording of the Two Situations

175. General approval of the two parameters was expressed by a few respondents; the definition was regarded as helpful and would help give extra protection for women. A similar number, comprised of equalities, justice / legal and women's organisations, specifically welcomed the introduction of 'contempt'. However, one justice / legal organisation did not believe that 'contempt' should be included in the aggravation, arguing that:

"It reduces the benchmark if all that is required is a demonstration of contempt. We do not believe that the Government has made a case for drafting an aggravation by misogyny differently from the existing statutory aggravations... The majority of aggravations will be established where the court holds that the things said, done or communicated demonstrate malice and ill will towards the victim, based on the victim being or presumed by the accused to be a woman."

176. However, similar numbers of respondents (almost all of these being equalities or women's organisations) preferred the use of 'prejudice', seeing it as a more accurate description of misogynistic views. According to an equalities organisation:

"It is welcome to see the inclusion of contempt in the proposed aggravation, but the HK Report made clear that prejudice is a key component of misogyny....Prejudice, furthermore, captures something else that the Report was addressing: the targeting of specific types of women (examples given: noisy, successful, or opinionated women; HK Report, p 57). Per the report, targeting specific kinds of women ultimately denies the humanity of women as a whole, and it is prejudice rather than malice, ill will or contempt that fuels the belief that these are not valid behaviours for women to engage in." (Equalities Organisation)

177. A minority (according to respondent names, most of the individuals responding were male and equalities organisations) voiced criticisms of the use of 'ill-will' or 'malice'. These descriptions were regarded as being the language of hate crime, not being an accurate description of men's

behaviour towards women and legally being hard to prove because of a lack of clarity. A women's organisation stated:

"Our position is that 'malice and ill will' mirrors the current standard used for the hate crime aggravator and would not be effective in reflecting the critical elements identified in the working group's definition of misogyny, that it – 'upholds the primary status of men and a sense of male entitlement, while subordinating women and limiting their power and freedom.' (page 28)" (Women's Organisation)

178. Further arguments put forward against the specific use of 'ill-will' by single respondents included that any crime directed at women could fall into this classification despite there being no genuine ill-will, and that it criminalised rudeness or unpleasantness. There was also a single criticism of the use of 'malice' in that many offences against individuals could be motivated by malice irrespective of the victim's characteristics (e.g. a man).

Comments Disagreeing with the Approach

179. A minority (around two in five comprising mostly individual respondents) disagreed with the approach, almost all of their remarks reiterating previously stated opposition to the creation of the offence in general and the statutory aggravation in particular. The main concerns were that the aggravation was sexist or went against gender equality, or that it created dangers for men or other non-women unless protections were added.

Other Comments

180. A small number of respondents raised hypothetical examples of potentially problematic cases, as follows:
- What if the offender views trans women as men? / concerns for trans women where the offender knows they are transgender and would argue that they thought the victim was male (2 respondents). Is the crime then covered by the hate crime bill but is not misogynistic?
 - What if a man in question does not presume the person they are committing the offence against is a woman?
 - What if the perpetrators of crimes choose to identify as women after the fact?
 - Concerns over the correct framing of statutory aggravations for offences where there are intersectional protected characteristics involved.

Exception for offences which are intrinsically misogynistic – section 1(5) and schedule 1

181. The consultation paper noted that Baroness Kennedy's report recommended that the aggravation should not be capable of being used (or 'libelled') in respect of offences which they consider are inherently misogynistic as they consider that the misogynistic aspect of such offending is already routinely taken into account when sentencing offenders convicted of these crimes. For this reason, they proposed that the aggravation should not be capable of being libelled for sexual offences and domestic abuse offences and for the new offences which the report recommends creating.

Q23: Do you agree with the Working Group's recommendation that the statutory aggravation should not be capable of being libelled for certain offences because these offences are inherently misogynistic and this would already be taken account of when sentencing the offender?

182. As shown in the following table, a majority – just over half - agreed with the Working Group's recommendation. Less than one in five respondents disagreed.

Q23	Support	Do not support	Other	Not answered
Total organisations (43)	20 (47%)	3 (7%)	2 (5%)	18 (42%)
Equalities (10)	6 (60%)	-	-	4 (40%)
Justice / Legal (6)	3 (50%)	1 (17%)	-	2 (33%)
Third Sector (2)	-	-	-	2 (100%)
Women's Organisation (16)	5 (31%)	1 (6%)	2 (13%)	8 (50%)
Other (9)	6 (67%)	1 (11%)	-	2 (22%)
Total individuals (200)	113 (57%)	36 (16%)	19 (10%)	32 (16%)
Total respondents (243)	133 (55%)	39 (16%)	21 (9%)	50 (21%)

183. A total of 70 respondents went on to make further comments.

Support for the Recommendation

184. A minority reiterated their general agreement with the recommendation and agreed with the view that certain offences are inherently misogynistic. A number of points were put forward in support of the recommendation, each by very small numbers of organisations:

- It ensures that existing protections for women are not weakened by any of the proposed offences (prevents misuse, ensures perpetrators don't manipulate the law for their own benefit, etc.).
- It helps to avoid the problems of double counting and artificiality (similar to, for example, ensuring that drug-trafficking offences are not aggravated by connection with serious organised crime, or the offence of abuse of a partner or ex-partner is not aggravated by domestic abuse).
- Stand-alone offences should take precedence if misogyny is obvious or inherent; e.g. it would be incoherent for sentencing to imply that, for example, some sexual assaults are misogynistic and others are not.

Queries and Reservations about the Recommendation

185. A minority from most respondent groups were sceptical about misogyny being always taken into account when sentencing an offender. There were requests for further detail and research on this matter. Furthermore, a justice / legal respondent commented that:

“..even with (inherently misogynistic) offences, there might be instances where the evidence supports clear misogynistic intent over and above the fundamental mens rea required for the core offence. There may well be merit in applying misogynistic aggravators in these cases to offences which additionally might be considered by some to be inherently misogynistic in any case. The situation does already exist whereby aggravators can be applied to like offences that seem by definition not to require the aggravator. These include a Bail aggravator being added to a Breach of Bail offence or a Domestic Abuse aggravator to an offence under the Domestic Abuse (Scotland) Act 2018. A statutory aggravation reflects an additional degree of aggravation caused by the motivation for committing the offence. The inclusion of an exemption list would be overly complex and could be perceived by victims as lessening the impact of the aggravation.”

186. A small number of individuals called for the provision to apply to all misogynistic crimes whether assumed inherently misogynistic or not and cited concerns about possible loopholes or too much leniency in sentencing if this was not done.

Other General Points

187. A minority of mainly individual respondents chose to reiterate more general objections to the proposals such as their perceived sexist nature amid calls for a general offence of sexist harassment, or to urge the use of provisions in existing laws instead; and a further minority (again mainly individual respondents) felt they did not understand the terminology of the question (in particular the use of 'libelled'), or said they did not feel qualified to answer.

Views on the list of offences which cannot be libelled

188. The consultation paper noted that aside from sexual offences and domestic abuse offences, there are certain other offences which can reasonably be considered to be intrinsically misogynistic. In common with other statutory aggravations, it is not proposed that the aggravation should have retrospective effect. The legislation contains a power for the Scottish Ministers to amend the list of offences in response of which the legislation cannot be libelled by an order laid in the Scottish Parliament and subject to affirmative resolution procedure.

Q24: Do you have any comments on the list of offences in the schedule in respect of which the misogyny aggravation cannot be libelled?

189. Only 40 respondents made comments at this question. A minority agreed generally with the list, saying the offences were inherently misogynistic and that it was extensive or comprehensive. Other than these, very few comments addressed the list of offences specifically; a minority of mainly individuals reiterated disagreement with the proposals in terms repeated throughout their answering.

190. A small number agreed that certain specified offences should be on the list, including domestic abuse. One justice / legal organisation supported “inclusion of offences which contain a significant sexual aspect) as described in the Sexual Offences Act 2003, Schedule 3, paragraph 5.” However, another organisation from the same sub-group was less certain: “We note that the consultation proposes to add several offences to the list suggested by the Working Group. We believe that further consideration should be given to this matter, should the carve-out be adopted. For example, should it apply to offences where there is ‘a significant sexual aspect to the offender’s behaviour in committing the offence’ and are therefore subject to notification requirements under paragraph 60 of Schedule 3 to the Sexual Offences Act 2003?”.

191. A very small number of respondents voiced scepticism as to whether misogyny is or would be taken into account in offences, for instance where the evidence supports clear misogynistic intent over and above the fundamental means required for the core offence. A women’s organisation stated:

“It is perhaps not the design of the law that is the issue here, it is the application of it by those involved across the criminal justice processes which fails women and girls”

192. A potentially problematic case was raised as follows:

- How offences subject to the carve-out should be treated at sentencing when committed by a woman or girl; it would be possible to conceive of a situation where such offending was accompanied by behaviour which allowed a court to conclude that it was motivated to some degree by misogyny.

193. Single respondents voiced the following opinions:

- An exemption list of offences would be overly complex.
- Advocation of adding online abuse to the list.
- The list is short on detail.

Q25: Do you have any other comments about the statutory aggravation relating to misogyny?

194. Only 41 responses were received at this question. A minority of these reiterated **general support for the statutory aggravation, also citing its importance for the protection and safety of women and girls** and commenting about the abhorrent aspects of misogyny and its prevalence. Similar numbers reiterated objections, and in particular claimed this was sexist and discriminatory and cited a need for similar protections for men and / or trans women.

195. The other main theme which arose was that of a need for non-legislative initiatives to promote cultural transformation, in addition to legislation. This was voiced mainly by equalities groups, who espoused a need for more education and training about misogyny in terms of gender competence and understanding of the gendered nature of violence.

196. There were also a couple of queries about how the policy will operate in practice (e.g. about whether the statutory aggravation will result in an uplift in penalty, or how an offence aggravated simultaneously by misogyny and by one or more forms of hate crime will be treated in law), as well as a request for further advice on the best course of action from the likes of legal experts, NGOs and the third sector. There were also a couple of concerns about police resourcing and the impact on the police (e.g. in terms of training, data management, finances and the perceived increase in workload).

197. A very small number of individuals were critical of the working group, claiming that the members were all women (this is not actually the case as some members were men).

198. Other single points made were as follows:

- There should not be exemptions for religious reasons.
- Disagreement that only one source should be sufficient (in terms of no corroboration).
- Disagreement that virginity testing should be regarded as misogynistic.

An offence of Stirring Up Hatred Against Women and Girls

Key Findings

Across the questions asked in this chapter, the same issues tended to emerge repeatedly.

- **Around two in three respondents supported the report's recommendation that there should be an offence of stirring up hatred of women and girls (Q26), and almost three in four agreed with the report's recommendation that the offence should be committed where a person behaves in a threatening or abusive manner or communicates threatening or abusive material, with the intention of stirring up hatred of women and girls (Q27).**

Key themes which emerged across these questions included:

- Agreement that it was important to recognise the stirring up of hatred as an offence in law as this is not covered by current justice provisions.
- Stirring up hatred can lead to more serious incidents and behaviour.
- Concerns were raised over a rise in online hatred of women and girls, and the rise of incel groups and culture; it was urged that these be a specific target of the recommendations.
- However, some respondents felt the offence would be sexist or discriminatory unless there were similar protections put in place for men and boys. There were suggestions for a more general offence of 'sexist stirring up of hatred'.
- Some concerns were voiced about the terminology of 'stirring up hatred' being too vague.
- There was support for the view that a threatening or abusive manner or the communication of threatening or abusive material will not be tolerated and must have consequences.
- Demonstration of 'intent' was seen as vital in constituting the offence; however defining and proving 'intent' was seen as problematic.
- There was general agreement that the proposed approach will protect freedom of expression. There were calls for a fair and reasonable balance between freedom of expression and preventing hatred.
- However, some respondents voiced concerns about freedom of expression being used as an excuse or defence for abuse and stirring up hatred.
- There is a need for non-legislative measures (e.g. education and training) to support a change in culture.

199. The consultation paper noted that Baroness Kennedy's report recommended there should be an offence of stirring up hatred of women and girls. The offence should not require there to be a specific victim. While

freedom of expression must be considered in determining whether the behaviour or communication was reasonable, no one should enjoy the freedom to stir up hatred towards women. Behaviour intended to stir up hatred against women and girls could take place on or offline and the offence focuses on behaviour that seeks to stir up hatred in others against women and girls rather than any behaviour that is necessarily directed at, or takes place in the vicinity of, women and girls.

Q26: Do you agree with the report's recommendation that there should be an offence of stirring up hatred of women and girls?

200. As shown in the following table, a majority – around two in three - agreed with the Working Group's recommendation. Only one in six respondents disagreed, with no organisations disagreeing.

Q26	Agree	Do not agree	Other	Not answered
Total organisations (43)	26 (60%)	-	4 (9%)	13 (30%)
Equalities (10)	4 (40%)	-	2 (20%)	4 (40%)
Justice / Legal (6)	4 (67%)	-	-	2 (33%)
Third Sector (2)	1 (50%)	-	-	1 (50%)
Women's Organisation (16)	10 (63%)	-	2 (13%)	4 (25%)
Other (9)	7 (78%)	-	-	2 (22%)
Total individuals (200)	138 (69%)	35 (18%)	11 (6%)	16 (8%)
Total respondents (243)	164 (67%)	35 (14%)	15 (6%)	29 (12%)

201. A total of 105 respondents went on to make further comments. The majority were supportive of the recommendation.

Supportive Points

202. A minority across sub-groups reiterated their agreement at the first part of the question, saying it was important to recognise the stirring up of hatred as an offence in law as this was not covered by current justice provisions. A few respondents each gave the following reasons for supporting the recommendation:

- Protection is needed from stirring up hatred in the same way as for other characteristics or offences (e.g. race or ethnicity, homophobia).

- It adds to the stance that misogyny and stirring up hatred will not be tolerated.
- Stirring up hatred does not support living in an inclusive / equal society (restricts women's abilities / roles, feel excluded, etc.).

203. A minority of women's organisations and individuals commented that stirring up hatred as an aggravating factor can lead to more serious incidents and behaviour. Slightly larger numbers from predominately the same sub-groups pointed to a rise in online hatred of women and girls as perpetrated by online influencers via social media and messaging (e.g. Tiktok) and desired the offence to be applied to this specifically. Slightly smaller numbers (this time also including equalities groups) wanted the legislation to help tackle the rise of incel groups and culture.

Disagreement with the Recommendation

204. A minority who disagreed with the recommendation put forward arguments that in the main reiterated points previously made, i.e. that the offence would be sexist and discriminatory unless there were similar protections for men and boys; a few respondents added that this was likely to intimidate or silence men and boys. A more general offence of 'sexist stirring up of hatred' was suggested.

205. Concerns that the terminology of 'stirring up hatred' was too vague and required clarification were raised by a minority. It was felt that the offence could be open to arbitrary enforcement or not competent to be the basis of a legally enforced crime. A few concerns were also raised regarding freedom of expression, while a few individuals claimed that the offence was already covered by existing hate crime legislation or alternatively that the offence could be added to existing laws. A small number voiced concerns about malicious use of the offence to target transgender activists or religious communities with 'traditional' views on gender.

206. Finally, small numbers reiterated viewpoints that the offence should only apply to women and girls on the basis of their biological sex; while very small numbers advocated further discussion and clarity on the definition of gender relating to women and girls.

The behaviour to be covered by the offence

207. Baroness Kennedy's report recommended adopting the approach taken for the general stirring up of hatred offence contained in the 2021 Act. This means that the offence of stirring up hatred against women and girls is committed where the accused behaves in a threatening or abusive manner, or communicated threatening or abusive material, and, in either case, has the intention of stirring up hatred against women and girls. A 'reasonableness' defence modelled on that contained in the 2021 Act has also been provided for.

Q27: Do you agree with the report's recommendation that the offence should be committed where a person behaves in a threatening or abusive manner or communicates threatening or abusive material, with the intention of stirring up hatred of women and girls?

208. As shown in the following table, almost three in four respondents agreed with the report's recommendation. Only one in eight respondents disagreed, with only one organisation disagreeing.

Q27	Agree	Do not agree	Other	No answered
Total organisations (43)	24 (56%)	1 (2%)	3 (7%)	15 (35%)
Equalities (10)	4 (40%)	-	2 (20%)	4 (40%)
Justice / Legal (6)	3 (50%)	1 (17%)	-	2 (33%)
Third Sector (2)	1 (50%)	-	-	1 (50%)
Women's Organisation (16)	9 (56%)	-	1 (6%)	6 (38%)
Other (9)	7 (78%)	-	-	2 (22%)
Total individuals (200)	146 (73%)	29 (15%)	7 (4%)	18 (9%)
Total respondents (243)	170 (70%)	30 (12%)	10 (4%)	33 (14%)

209. A total of 78 respondents commented further, though only a few dedicated their remarks to the definition of when the offence is committed.

Support for the Recommendation

210. The largest numbers of respondents – a minority across sub-groups – again reiterated general support and cited their approval that a threatening or abusive manner or the communication of threatening or abusive material will not be tolerated and must have consequences. It was advocated that offenders should be held to account and penalties must be clear and enforceable. A third sector organisation and an equalities organisation commented that the recommendation was in keeping with the approach taken in the Hate Crime and Public Order (Scotland) Act 2021. Furthermore, very small numbers of comments felt that the recommendation supported or supplemented the other provisions.

211. Online hatred was urged to be a specific target of the recommendations by a few respondents, with a focus on action regarding all male chat rooms and Whatsapp groups.

212. A few respondents (it appears from the names of consultation respondents that these respondents were mainly female) saw the 'intention'

element as being crucial, as “this defines the difference between actions which should and shouldn’t be criminalised” (‘Other’ organisation). A demonstration of ‘intent’ was seen as necessary in constituting the offence.

Provisos

213. However, concerns about how to define ‘intent’ and decide on intentions were also voiced; it was thought by a few respondents that proving ‘intent’ may be difficult or impossible with it being unclear how to evidence this.
214. A few respondents repeated concerns that the definition of ‘stirring up hatred’ was too vague and that this would require a statutory definition. Two respondents preferred the use of ‘inciting’ instead as this was seen to better define the behaviour.
215. Again a few respondents were concerned to preserve freedom of expression, with suggestions that clauses or exemptions should be put in place.

Disagreement with the Recommendation

216. A minority of respondents (it appears from the names of consultation respondents that these respondents were mainly males) again reiterated their disagreement, mostly in the context of previously stated arguments against the proposals for a misogyny offence. Allegations that the proposals were sexist were foremost, with suggestions made again for a general offence of ‘sexist stirring up of hatred’.

Freedom of Expression (section 2)

217. The consultation paper explained that Baroness Kennedy’s report recommended freedom of expression must be considered in determining whether the behaviour or communication was reasonable.

Q28: Do you have any comments on the proposed approach to freedom of expression set out in the draft provisions?

218. A total of 71 responses were received at this question.

In Support

219. A minority agreed with the approach and generally commented that the safeguard is necessary and will protect freedom of expression. Further supportive remarks from a small number of respondents each included the following:
- Freedom of expression is a right under ECHR / Human Rights Act and the proposals satisfy this.

- The approach is in keeping with the provisions taken in the Hate Crime and Public Order (Scotland) Act 2021.
- Agreement that freedom of expression constitutes a reasonable defence.

220. **A number of specific areas which should be classed as free expression and therefore excluded were put forward** as follows, each by small numbers of respondents:

- Respectful free and frank discussion of a range of material (e.g. the political ideology of Feminism or gender equality).
- Discussion of the effects of violent misogyny on women.
- SQA curriculum and education system content.
- One-off comments.
- Expression of opinion.
- Comedy, art, film and TV performances.

221. A small number of respondents regarded the demonstration of intent as being crucial to protect freedom of expression; however, equal numbers repeated their concerns about the 'intention' being difficult to define or prove.

Provisos

222. A minority emphasised that there needs to be a fair and reasonable balance between freedom of expression and preventing hatred. Associated with this, there were a few comments about the boundaries between stirring up hatred and freedom of expression being too vague and in need of clarification (e.g. explaining the difference between disagreements and hate crime).

223. A small number of examples were put forward where it was thought freedom of expression should not be regarded as reasonable: these included misogynistic hate speech, repeated and regular patterns of behaviour and any instance where the police needed to be called for help.

224. Questions about the difficulties of policing and enforcing rules regarding freedom of expression were also raised in a small number of responses.

Opposing Comments

225. Concerns that freedom of expression should not be an excuse or defence for abuse and stirring up hatred were expressed by a minority of mainly individual respondents. A small number of concerns were voiced regarding the risk of abuse of freedom of expression being high or this being an excuse for intimidating or inappropriate behaviour.

226. Conversely, a few mainly male individuals (according to the names provided by consultation respondents) had concerns about risks to freedom of expression and stated that they do not want to be told what can and cannot be discussed and expressed a wariness of having to enshrine freedom of expression in law, rather than being presumed.

227. Similar numbers repeated their opposition (stated throughout the consultation) to the proposals as a whole.

Q29: Do you have any other comments on the draft offence of stirring up hatred of women and girls?

228. A total of 57 responses were received at this question. Almost all reiterated points already made.

In Support

229. A minority reiterated general support for the draft offence. Several respondents repeated concerns about the dangers of online hatred and incel group culture and the need to apply the draft offence to these.

Provisos

230. A few respondents across most sub-groups highlighted the roles of non-legislative measures such as education, training and counselling in the community as being important in changing the culture.

231. Concerns were again voiced about protecting freedom of expression by a small number of respondents; and a justice / legal and an equalities organisation raised concerns about the practical impacts of policing the offence, in terms of training, data management and recording and finance costs.

Sex and Gender-related comments

232. A minority of mainly individuals advocated an equal offence or added protections for men and boys and claimed it should be illegal for women to stir up hatred of men. A general offence of sexist stirring up of hatred was suggested to make it gender-neutral.

233. Repeating a point made previously, a small number of individuals urged that the offence should apply only to women and girls. However, two respondents thought the offence needed to be inclusive of all female-identifying people (including trans women).

Against the Draft Offence

234. General disagreement with the misogyny law being introduced were again voiced by a minority, together with criticisms that the proposals are discriminatory and are counter to the 2010 Equality Act.

Impact Assessments

Key Findings

Key themes emerging across these questions included:

- Positive impacts were foreseen on women's and girls' human rights, and women's and girls' equalities. It was thought the proposals will strengthen their protection.
- But negative impacts were foreseen on men's and boys' human rights and equalities and could be seen to be discriminatory.
- The importance of upholding human rights, equalities and other obligations was reinforced. There were some perceptions that the proposals would breach some regulations and conventions.
- Fears were expressed about negative impacts on freedom of expression (e.g. limitations on expressing opinions).
- Sex, gender and their relationship or classification with regard to the protected characteristics and the proposals was a focus for discussion, with varied viewpoints on this.
- Positive impacts were foreseen on women socio-economically speaking, though there was some concern over impacts on lower socio-economic groupings, particularly over-policing and lack of access to justice and the law; the latter point was also raised in relation to island communities.
- In general, island communities were otherwise seen to be impacted in the same ways as all others by the proposals.
- Positive impacts were foreseen on workplace culture, particularly with regard to women's safety at work.
- Some concerns were raised about the work necessary for training and HR policy renewal and also fears about misplaced or false misogynistic accusations in the workplace. Some industry sectors were the subject of specific concerns.
- Few impacts were foreseen on privacy and data protection, or on the environment.
- There were some calls for the proposals to be implemented in concert with education to produce cultural change.
- With all impact assessments, much would depend on how the legislation is implemented in practice.

235. The consultation paper noted the need to conduct a number of impact assessments to identify issues that may affect some groups more than others and to consider how to address these issues. The impact assessments also explored what impacts the proposed reforms to the criminal law will have on matters such as privacy, equality, child rights and wellbeing and business. It is also necessary to ensure that any reforms to the criminal law comply with the European Convention on Human Rights.

Q30: Do you have any views on potential impacts of the proposals in this consultation on human rights?

236. A total of 114 responses were received. Fairly equal minorities of respondents foresaw positive and negative impacts. Only a small number foresaw no impacts.

Positive Impacts

237. A minority across most sub-groups saw a positive impact on women's and girls' human rights. Specific perceptions included:

- The proposals will protect women and girls.
- The proposals support equal rights for women and girls.
- The proposals improve access to justice.
- The proposals put women's and girls' human rights in line with human rights provided to other (protected) characteristics.
- Human rights law provides substantive authority for further action to protect women and girls from gender-based violence.

238. Additionally, a minority foresaw that women and girls will be able to live in safety and without fear.

239. A small number foresaw improvements to people's human rights generally.

Negative Impacts

240. Fears that human rights advantages would be created for one demographic over another were espoused by a minority of mostly individual male respondents (according to the names given by respondents); the feeling amongst these was that everyone should get the same protections regardless of sex or gender. In association with this, slightly smaller numbers pinpointed negative impacts on male human rights, since they would be denied rights enjoyed by others. They held a view that the proposals were not compatible with or infringed upon the Human Rights Act and the ECHR, with Articles 6,7,8 and 14 specified in this regard. Article 14 was mentioned five times by these respondents because the proposals arbitrarily exclude some people from legal protection because of their sex. Two respondents felt the proposals were in breach of the UN Declaration on Human Rights.

241. There were also a significant number of mentions of perceived negative impacts of the proposals on freedom of speech, including limitations on expressing opinions and talking about sex in public. Similar numbers wanted to ensure freedom of speech was maintained and referred to ECHR Article 10 (Right to Freedom of Expression). Other respondents however had concerns over people hiding behind their right to freedom of speech in order to be abusive or by twisting religion to allow for hateful

views. A small number voiced fears that the human rights of perpetrators would be enhanced, or that the human rights of freedom of belief and expression of women who challenge 'gender ideology' would be impacted.

Other Comments

242. The importance of upholding Human Rights legislation and compatibility with the ECHR was reinforced by a small minority of respondents. According to an equalities organisation:

"A number of the provisions of the ECHR may be engaged in relation to violence against women and girls – including Article 3 (Prohibition of torture, inhuman and degrading treatment or punishment); Article 8 (Right to respect for private and family life); Article 14 (Prohibition of discrimination); and Article 2 (Right to life). Other rights protected by the convention such as freedom of assembly and association (Article 11) or the right to stand for election (Article 3 of Protocol 1 to the Convention) are likely to be inhibited by tolerance of misogyny in public settings."

243. Upholding obligations under the Istanbul Convention (Action against Violence against Women) should also be a consideration, according to two respondents.

244. Small numbers wanted clarification as to the rights of trans-status individuals under the proposals.

245. Finally, a minority foresaw that much depends on how the legislation is handled in practice.

Q31: Do you have any views on potential impacts of the proposals in this consultation on equalities and the protected characteristics set out above?

246. A total of 83 responses were received. Again, fairly equal minorities of respondents foresaw positive and negative impacts. Only a small number foresaw no impacts. Many of the themes reflected those stated regarding the impact of the proposals on human rights.

Positive Impacts

247. A minority across sub-groups foresaw general positive impacts, by way of improving equalities through criminalising unacceptable behaviours and supporting cultural change. A minority of mainly equalities and women's organisations and (according to the names provided by respondents) female respondents saw a positive impact on women's and girls' equalities in terms of strengthening protection for them and supported equal rights and improving access to justice. Small numbers added that the proposals would help prevent discrimination in terms of sex or help equality of the protected characteristic of sex; or would help support protected characteristics generally and reasoned that discrimination and marginalisation is complex.

248. A couple of respondents foresaw that the proposals would uphold equalities legislation (i.e. duties in the Equalities Act).

Negative Impacts

249. A minority of mainly individual respondents thought that the proposals discriminate based on the protected characteristic of sex, pointing out inequality unless everyone has the same protections irrespective of sex or gender. Slightly fewer respondents specified negative impacts on male's equalities. Small numbers claimed that the proposals fall foul of the Equalities Act through creating inequality.
250. A couple of respondents foresaw negative impacts on other protected characteristics, with an example given that over-policed communities, such as communities of colour, may be impacted to a greater degree.

Other Comments

251. Sex, gender and their relationship or classification with regard to the protected characteristics and the proposals was the focus of discussion for a minority of mainly female individuals (according to the names provided by consultation respondents) and women's organisations. The highest numbers of these – a few respondents – had concerns and queries over the rights and classification of trans-status individuals under the proposals. There were suggestions that abusive behaviour directed at the trans community should be covered or is covered by Hate Crime legislation. Also, it was claimed that legal conflation of sex and gender would make many prosecutions impossible. There were advocates for 'sex' in the Equalities Act and the proposals to refer to biological females only, matched in roughly equal numbers by those requesting gender to be a protected characteristic (i.e. including trans women and non-binary in the classification).
252. As with the impact on human rights, a small number of respondents noted that much will depend on how the legislation is implemented in practice.
253. A few respondents reiterated negative impacts on human rights and freedom of speech.

Q32: Do you have any views on potential impacts of the proposals in this consultation on children and young people as set out in the UN Convention on the Rights of the Child?

254. A total of 65 respondents answered. Larger minorities of respondents – almost half - foresaw positive rather than negative impacts. Only a very small number foresaw no impacts. Many of the themes noted at this question reflected those seen in previous questions on the impact of the proposals.

Positive Impacts

255. A positive impact (from a minority) was primarily seen on girls, with the main theme being that the proposals will strengthen their protection. Slightly fewer respondents foresaw the proposals as strengthening the Rights of the Child and providing further protection for young people generally. A minority saw the measures resulting in a safer school and educational environment where all are treated with respect and people are empowered to stand up to casual misogyny.

Negative Impacts

256. A few respondents voiced concerns about overly harsh punishments, saying that care needs to be taken not to stoke divisions and burden boys with criminal convictions. A women's organisation had concerns around Article 40 of the UNCRC, which:

"...guarantee(s) that the treatment of children within the penal system is "in a manner consistent with the promotion of the child's sense of dignity and worth" and, importantly, "whenever appropriate and desirable, measures for dealing with such children [are done so] without resorting to judicial proceedings".

257. A small number stated negative impacts on boys and foresaw they would be discriminated against.

258. Very small numbers of respondents perceived that the proposals breach the UNCRC. Articles 2 (by excluding children from the protection of the proposed legislation based on sex (or gender)) and 19 (by legal conflation of sex and gender identity) were mentioned in this regard.

Other Comments

259. A need for the proposals to be implemented in concert with an emphasis on education of young people to produce cultural change and promote the wellbeing of girls was voiced by a minority (mainly women's organisations and individuals). It was felt this would help counter influential online figures (e.g. Andrew Tate) and enable the calling out of misogynistic behaviour. That said, a couple of respondents had concerns about restrictions on adolescents who they felt have a tendency for impulsive or rude behaviour and need to be given freedom to learn and evolve.
260. Prevention and rehabilitation education was regarded as preferable to other punishments (for minor offences) by a couple of women's organisations.
261. A few respondents agreed it was important to uphold the Rights of the Child by prioritising children as a vulnerable group.

262. Further points reiterated those previously stated, i.e. regarding infringements of rights in other areas and the importance of how the legislation is implemented.

Q33: Do you have any views on potential impacts of the proposals in this consultation on socio-economic inequality?

263. A total of 67 respondents answered. Views were relatively polarised with large minorities of respondents seeing positive and negative impacts. A few foresaw no impacts, as it was perceived that misogyny is apparent across all social classes and did not vary with socio-economic inequality. Many of the themes again reflected those given previously regarding the impact of the proposals.

Positive Impacts

264. A minority (comprising equalities and women's organisations and individuals) saw positive impacts on women socio-economically; it was felt that women would be more able to participate safely in education and public and working life, that the proposals would bolster their status, that they would help address the gender pay gap and bring more socio-economic equality between men and women. Related to this, a small number saw positive impacts for those at the poorer end of the socio-economic spectrum, as these are often women.
265. A minority thought the proposals would help develop a fairer and more equitable society or enhance socio-economic equality.

Negative Impacts

266. A minority thought there would be negative impacts on lower income groups. There were two separate strands to this thinking: firstly, that women may not have enough trust in the police or access to the law to report experiences, and secondly, concerns about men in this group tending to be over-policed and so may experience 'over-criminalisation'. It was also perceived that punishments tend to have a greater punitive effect on the lower socio-economic groups; and that it would be more difficult to identify misogyny offences in wealthier groups.
267. A minority repeated their opinions that the proposals would have negative impacts on men or were discriminatory, for reasons not related to socio-economic inequality; allied to this were general disagreements with the proposals.

Other Comments

268. A few respondents raised concerns over equality of access to the law, both in terms of adequate criminal justice resources being available and perceptions that those at the lower end of the socio-economic scale lack access to justice.

269. A small number of respondents agreed it was important to uphold the Fairer Scotland Duty, arguing it was healthy for society to aim for socio-economic equality.
270. Further points reiterated those previously stated, i.e. regarding infringements of rights in other areas and the importance of how the legislation is implemented. A few respondents again made the point that the proposals need to be brought in in concert with education and prevention work.

Q34: Do you have any views on potential impacts of the proposals in this consultation on communities on the Scottish islands?

271. 39 replies were received at this question. A minority either foresaw no impacts or commented that the proposals would have the same effect on island communities as for all others since the law would be the same everywhere.

Positive Impacts

272. A few respondents cited positive impacts, all of which reframed previously stated benefits to women and in developing a fairer, more equitable society.

Negative Impacts

273. A small number of respondents raised concerns over access to the law, both in terms of adequacy of criminal justice resources in the islands and poor communications (e.g. travel requirements to court, poor internet speeds and delays in accessing the police). Allied to this were a similar number of worries over how the proposals would be enforced, given island remoteness, new legislation taking longer to filter into communities and greater costs.
274. A need to take into account smaller community issues was voiced by a similar number of respondents; problems included identification of offenders being more widely known in a tight knit community, this situation making it harder to call out misogynistic behaviour, and physical isolation increasing the possibility of being controlled.
275. A small number repeated their opinions that the proposals would have negative impacts on men or were discriminatory against men.

Other Comments

276. Local involvement in decision-making was urged by a small number of respondents, in order to let islanders have a voice, as they were perceived to be best informed to give an opinion about the impacts of the proposals.

Q35: Do you have any views on potential impacts of the proposals in this consultation on privacy and data protection?

277. This question received 32 responses, almost all from individuals. Only one mention was made perceiving a positive impact (without elaborating), while negative impacts mainly reflected previously made statements regarding men amid general disagreement with the legislation.

278. A small number stated there would be no impact on privacy and data protection.

Negative Impacts

279. A small number of male respondents (according to the names provided by consultation respondents) foresaw risks to men's privacy. There was also a concern from one respondent about male educators being liable to Non Crime Hate Incidents on the Police Scotland database, even if just one person in their class asks Police Scotland to investigate any perceived offence.

Other Comments

280. A few respondents stated that they were in favour of the state accessing private communications if perpetrators were spreading misogyny; it was intimated these people should forfeit their right to data protection.

281. Conversely, there was an expectation (from similar numbers) that privacy and data protection laws should be meticulously observed with regard to cases where women or girls were reporting misogyny.

282. There were also a couple of calls for risk assessments to assess any impacts of the proposed legislative changes on the way that personal data is used.

Q36: Do you have any views on potential impacts of the proposals in this consultation on businesses and the third sector?

283. There were 45 comments received at this question, mostly from individuals. A majority of these mentioned negative impacts, considerably more than mentioned positive impacts.

Positive Impacts

284. Amongst the relatively few comments described were benefits to women in terms of safety at work and a reduction in gender stereotyping. Positive impacts on workplace culture were also mentioned, including a pleasant atmosphere, equality in the workplace and zero tolerance of misogyny.

Negative Impacts

285. A few respondents perceived negative impacts on workplace regulations and etiquette from the proposals, necessitating education, training and renewed HR policies needing to include a code of conduct as to what is acceptable; the latter would be a necessity as misogyny would now be a criminal offence rather than a disciplinary matter. Allied to this, concerns were expressed over misplaced or false misogynistic accusations, fears over offending people, businesses avoiding hiring women, and this impact being a factor pushing staff to request homeworking.

286. Small or very small numbers of respondents highlighted the following concerns regarding specific sectors:

- Charities / third sector: increased burden from increased demand for support resulting in extra funding requirements, a greater funding divide between female dominated charities and men's charities.
- Social media / internet businesses: requirements for more regulation, freedom of expression fears, liability for prosecution.
- Leisure industry (e.g. bars / nightclubs / music venues): loss of business because of fears over misogyny accusations, pubs and bars requiring increased awareness and compliance problems.
- Arts and culture organisations (e.g. film / theatre / TV): freedom of expression fears, prohibitions on public performance and / or publishing of strongly worded material.
- Religion and religious organisations: worries over perceptions of misogynistic content.
- Small companies: cost burdens.

Q37: Do you have any views on potential impacts of the proposals in this consultation on the environment?

287. There were only 29 comments made at this question, again mostly from individuals. The largest numbers of these indicated that the proposals would have no impact on the environment.

Positive Impacts

288. A few respondents noted positive impacts on women, noting that a poor environment disproportionately affects women and girls while perceiving that the removal of inequalities will bring environmental benefits.

289. There were a very small number who perceived positive environmental impacts arising from improved safety settings such that women will be more inclined to use public transport.

Negative Impacts

290. A very small number foresaw an upsurge in misogyny accusations leading to generation of more paper from handling the new laws and associated increased energy usage.

Additional comments

291. Only 6 organisations added further comments. Many of the remarks either concerned the role and background of the respondent or constituted reasons for confining comments to only certain parts of the consultation (e.g. to areas where it was felt the respondent could usefully contribute).

292. There were also reiterations of points made regularly throughout the consultation questions: the need to frame the new offence carefully in the context of sex and gender, and support for a prevention approach in terms of public education for changing the culture. A women's organisation supported the separate approach to misogyny, while a justice / legal organisation had concerns about whether the separation of misogyny offences from the hate crime framework creates any gaps in protection for men and boys from offences which are aggravated by prejudice or not, and whether there is a need to address any gaps in protection or not.

293. Finally, a justice / legal respondent gave the following overall opinion:

"...much of the conduct which is targeted by the proposed legislation is already criminal, and the proposals may do little other than change the emphasis. That, again, is matter of policy upon which we have no comment.

Considering matters very generally, legislating to create offences, where the conduct is already criminal, runs the risk of causing confusion. The essential elements of a statutory offence must be expressed in a way that will be clearly comprehensible to a jury directed by a judge. In addition, in order to make sure that the offender is properly convicted, complaints and indictments may end up being longer by dint of the inclusion of alternative, differently nuanced, charges, so that an offender will not escape justice just because the precise requirements of an offence were not met.

To that end, consideration could be given to the inclusion in the legislation of implied alternatives, such as is done in section 39(8) and (9) of the Criminal Justice and Licensing (Scotland) Act 2010." (Justice / Legal organisation)

Appendix 1: Respondent Organisations

Aberdeenshire Council
Abused Men in Scotland (AMIS)
ASLEF
AWA
British Transport Police
Dumfries and Galloway's Violence Against Women Subcommittee
Engender
Equality and Human Rights Commission
Equality Network
Evangelical Alliance Scotland
For Women Scotland
Forth Valley Rape Crisis Centre
Girlguiding Scotland
Glasgow Violence Against Women Partnership
Kyniska Advocacy
Law Society of Scotland
LEAP Sports Scotland
LGBT Health and Wellbeing
Men and Boys Coalition
Perth and Kinross Branch of the Green Party
Police Scotland
Rape Crisis Scotland
Rising Tides (a pupil-led feminist society at George Watson's College)
Scottish Borders Rape Crisis Centre
Scottish Commission for People with Learning Disabilities
Scottish Community Safety Network
Scottish Courts and Tribunals Service
Scottish Human Rights Commission
Scottish Sentencing Council
Scottish Teachers for Positive Change and Wellbeing
Scottish Women's Aid
Scottish Women's Rights Centre (SWRC)
Scottish Women's Convention
Senators of the College of Justice
Soroptimist International Club of Edinburgh
Soroptimist International Glasgow City
South West Grid for Learning
Sportscotland
Stonewall Scotland
The Free Church of Scotland
Victim Support Scotland
Women's Equality Party
Zero Tolerance

How to access background or source data

The data collected for this publication:

- ☐ are available in more detail through Scottish Neighbourhood Statistics
- ☐ are available via an alternative route
- ☒ may be made available on request, subject to consideration of legal and ethical factors. Please contact ellis.reilly@gov.scot for further information.
- ☐ cannot be made available by Scottish Government for further analysis as Scottish Government is not the data controller.



© Crown copyright 2025



This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.scot

Any enquiries regarding this publication should be sent to us at

The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-83601-638-0 (web only)

Published by The Scottish Government, May 2025

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS1490498 (05/25)

W W W . g o v . s c o t