

Please find attached submission on the above

Thanks

[REDACTED]

[REDACTED] Criminal Law & Procedure Team Leader

Criminal Justice Division

[REDACTED]

This email is for the official record and confirms a Ministerial Decision. This email must be placed in the official record (eRDM) by your team [in line with SG records management policy](#).

Hi [REDACTED]

Ms Constance has seen your note and agrees with the proposition clearly set out in para 24 and 30.

Many thanks.

[REDACTED]

Private Secretary to Cabinet Secretary for Justice and Home Affairs : Angela Constance MSP

T: [REDACTED] | M: [REDACTED] | E: [REDACTED]

The Scottish Government | St Andrew's House, Regent Road, EDINBURGH EH1 3DG

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<[REDACTED]@gov.scot>

From: [REDACTED] <[REDACTED]@gov.scot>;

Sent: Thursday, September 12, 2024 4:54 PM

To: Cabinet Secretary for Justice and Home Affairs 2024

<CabSecforJHA@gov.scot>

Cc: First Minister <FirstMinister@gov.scot>; Lord Advocate

<LordAdvocate@gov.scot>; Solicitor General <SolicitorGeneral@gov.scot>; Minister

for Victims and Community Safety 2024 <MinisterforVCS@gov.scot>; Minister for

Public Health and Women's Health <MinisterforPHWH@gov.scot>; [REDACTED]

<[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>;

[REDACTED] <[REDACTED]@gov.scot>; [REDACTED]

<[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>;

[REDACTED] <[REDACTED]@gov.scot>; [REDACTED]

<[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>;
[REDACTED] <[REDACTED]@gov.scot>; [REDACTED]
<[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>;
[REDACTED] <[REDACTED]@gov.scot>; [REDACTED]
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<[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>;
[REDACTED] <[REDACTED]@gov.scot>; [REDACTED]
<[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>;
Communications Justice and Home Affairs <[REDACTED]@gov.scot>
Subject: MISOGYNY BILL: [REDACTED]

Please find attached submission on the above

Thanks

[REDACTED]

[REDACTED] | Criminal Law & Procedure Team Leader

Criminal Justice Division

[REDACTED]

From: [REDACTED]
Criminal Justice Division
Ext [REDACTED]

PS/Cabinet Secretary for Justice and Home Affairs

**MISOGYNY BILL – CONSIDERATION OF WHO IS TO BE COVERED BY
'GENDERED LAW'**

Priority and Purpose

1. To provide the Cabinet Secretary with advice on the how the criminal law provisions contained in the Misogyny Bill could apply [REDACTED]
2. [REDACTED]

Recommendation

3. Recommends that: the Cabinet Secretary indicates whether she is content with the policy approach proposed at paragraph 2 and, if so, whether the Cabinet Secretary has any specific comments on the draft provisions giving effect to this policy at Annex B.
4. The Cabinet Secretary will wish to be informed by any views offered by the Law Officers for their prosecutorial interests in the development of these new items of law. This advice has been copied to Law Officers as well as Crown Office officials.

Context and Issues

General background

5. This is one of a series of submissions providing advice on the content of the Misogyny Bill ("the Bill"). The previous submissions offered advice related to each of the specific items of criminal law being considered for inclusion in the Bill.
6. [REDACTED]
7. [REDACTED]
8. [REDACTED]
9. [REDACTED]
10. [REDACTED]
11. [REDACTED]
12. [REDACTED]

13. [REDACTED]

14. [REDACTED]

15. [REDACTED]

16. [REDACTED]

17. [REDACTED]

18. [REDACTED]

19. [REDACTED]

20. [REDACTED]

21. [REDACTED].

Options Considered and Advice

Overarching policy approach

22. [REDACTED]

23. [REDACTED]

24. [REDACTED]

25. [REDACTED]

26. [REDACTED]

27. [REDACTED]

28. [REDACTED]

29. [REDACTED]

30. [REDACTED]

31. [REDACTED]

32. [REDACTED]

Alternatives considered to the overarching policy approach

33. [REDACTED]

34. [REDACTED]

35. [REDACTED]

36. [REDACTED]

Context within which advice is being offered

37. [REDACTED]

38. [REDACTED]

39. [REDACTED]

40. [REDACTED]

41. [REDACTED]

42. [REDACTED]

43. [REDACTED]

- [REDACTED]
- [REDACTED]
 - [REDACTED]

- [REDACTED]
 - [REDACTED]

- [REDACTED]
- [REDACTED]
 - [REDACTED]

- [REDACTED]
 - [REDACTED]
 - [REDACTED]

- [REDACTED]
 - [REDACTED]

44. [REDACTED]

Quality Assurance

45. This submission has been approved by [REDACTED], Deputy Director, Criminal Justice Division

Conclusions and next Steps

46. We invite the Cabinet Secretary to offer views and would be happy to discuss.

[REDACTED]

Justice Directorate: Criminal Justice Division

Ext [REDACTED]/ Mobile [REDACTED]

Cabinet Secretaries and Ministers Copy List	For Action	For Information Portfolio interest	For Information Constituency interest	For Information General awareness
First Minister		X		
Lord Advocate		X		
Solicitor General		X		
Minister for Victims and Community Safety		X		
Minister for Equalities, Migration and Refugees		X		
Officials Copy List				

Permanent Secretary

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Communications Justice

ANNEX A – [REDACTED]

1. [REDACTED]

2. [REDACTED]

3. [REDACTED]

4. [REDACTED]

5. [REDACTED]

6. [REDACTED]

7. [REDACTED]

8. [REDACTED]

9. [REDACTED]

10. [REDACTED]

11. [REDACTED]

Annex B – [REDACTED]

Misogynistic harassment offence

1. [REDACTED]:
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]

2. [REDACTED]

3. [REDACTED]

4. [REDACTED]

5. [REDACTED]

Alternative approaches

6. [REDACTED]

7. [REDACTED]

Offence of threatening or abusive communications to women and girls which reference rape, sexual assault or disfigurement

8. [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]

9. [REDACTED]

10. [REDACTED]

11. [REDACTED]

12. [REDACTED]

13. [REDACTED]

14. [REDACTED]

15. [REDACTED]

16. [REDACTED]

17. [REDACTED]

Alternative Approaches

18. [REDACTED]:

- [REDACTED]
- [REDACTED]
- [REDACTED]

19. [REDACTED]

Aggravation of offences by misogyny

20. [REDACTED]

21. [REDACTED]:

- [REDACTED]
- [REDACTED]

22. [REDACTED]

23. [REDACTED]

24. [REDACTED]

25. [REDACTED]

26. [REDACTED]

Alternative Approaches

27. [REDACTED]

Offence of stirring up hatred against women and girls

28. [REDACTED]:

- [REDACTED]
- [REDACTED]

29. [REDACTED]

30. [REDACTED]

31. [REDACTED]

Alternative approaches

32. [REDACTED]

33. [REDACTED]

Misogynistic behaviour offence

34. [REDACTED]:

- [REDACTED]
- [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
- [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]

35. [REDACTED]

36. [REDACTED]

37. [REDACTED]

38. [REDACTED]

39. [REDACTED]

40. [REDACTED]

Alternative approaches

41. [REDACTED]

<[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>;
[REDACTED] <[REDACTED]@gov.scot>; [REDACTED]
<[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>;
[REDACTED] <[REDACTED]@gov.scot>; [REDACTED]
<[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>;
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[REDACTED] <[REDACTED]@gov.scot>; [REDACTED]
<[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>;
[REDACTED] <[REDACTED]@gov.scot>; [REDACTED]
Communications Justice and Home Affairs <[REDACTED]@gov.scot>;
Subject: RE: Misogyny Bill - [REDACTED]

Hi [REDACTED]

Apologies for the delay in coming back to you on this. Ms Constance is looking to discuss this further with [REDACTED] in the first instance and then subsequently with officials. The former should hopefully be Wednesday this week and then with yourselves early next week (just in case Cab Sec asks for anything further ahead of meeting officials). If that doesn't work for any reason please let me know.

Ms Constance did ask for a quick reminder on roughly what timetable we are working to for this.

Thanks.

[REDACTED]

Private Secretary to Cabinet Secretary for Justice and Home Affairs : Angela Constance MSP

T: [REDACTED] | M: [REDACTED] | E: [REDACTED]

The Scottish Government | St Andrew's House, Regent Road, EDINBURGH EH1 3DG

[REDACTED]

[REDACTED] | **Criminal Law & Procedure Team Leader**

Criminal Justice Division

[REDACTED]

PS/Cabinet Secretary for Justice and Home Affairs

MISOGYNY BILL: [REDACTED]

Priority and Purpose

1. [REDACTED]

Recommendation

2. The Cabinet Secretary is invited to note the advice and offer any views she has on the proposed approach.

Context and Issues

3. [REDACTED]

4. [REDACTED]

5. [REDACTED]

Background

6. [REDACTED]

7. [REDACTED]:
 - [REDACTED]
 - [REDACTED]

8. [REDACTED]

Options Considered and Advice

[REDACTED]

9. [REDACTED]

10. [REDACTED]

11. [REDACTED]

12. [REDACTED]

13. [REDACTED]

14. [REDACTED]

15. [REDACTED]

16. [REDACTED]

17. [REDACTED]

18. [REDACTED]

[REDACTED]

19. [REDACTED]

20. [REDACTED]

21. [REDACTED]

22. [REDACTED]

23. [REDACTED]

24. [REDACTED]

[REDACTED]

25. [REDACTED]

26. [REDACTED]

27. [REDACTED]

28. [REDACTED]

29. [REDACTED]

30. [REDACTED]

Proposed Next Steps

31. [REDACTED]

32. [REDACTED]

Financial and Legal Considerations

33. [REDACTED]

34. [REDACTED]

Sensitivities

35. [REDACTED]

36. [REDACTED]

37. [REDACTED]

38. [REDACTED]

39. [REDACTED]

Quality Assurance

40. This Submission has been approved by [REDACTED], Deputy Director, Criminal Justice.

Conclusions and next Steps

41. The Cabinet Secretary is invited to note the above advice and offer any views she has on the proposed approach. Officials would be happy to discuss if that would be helpful.

[REDACTED]

Justice Directorate: Criminal Justice Division

Ext [REDACTED]/Mob. [REDACTED]

Cabinet Secretaries and Ministers Copy List	For Action	For Information Portfolio interest	For Information Constituency interest	For Information General awareness
First Minister			X	
Lord Advocate		X		
Solicitor General		X		
Minister for Victims and Community Safety		X		
Minister for Public Health and Women's Health		X		

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Communications Justice

First Minister

**Cc: Cabinet Secretary for Social Justice
Minister for Parliamentary Business
Minister for Community Safety and Victims**

MISOGYNY BILL [REDACTED]

Purpose

1. You met with the Cabinet Secretary for Social Justice, the Minister for Parliamentary Business and me on 26 June to discuss a range of legislative issues.

2. [REDACTED]

3. [REDACTED]

4. [REDACTED]

5. [REDACTED]

6. [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

7. [REDACTED]

Advantages and disadvantages of each approach

[REDACTED]	
Pros	Cons
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]	
Pros	Cons
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	
[REDACTED]	

8. [REDACTED]

[REDACTED]	
Pros	Cons
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

9. [REDACTED]

[REDACTED]	
Pros	Cons
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Position of other political parties

10. [REDACTED]

11. [REDACTED]

12. [REDACTED]

13. [REDACTED]

14. [REDACTED]

15. [REDACTED]

16. I would be happy to discuss this further.

AC

Cabinet Secretary for Justice and Home Affairs

The following is an extract from the Scottish Government's Hate Crime briefing for use at First Minister's Questions (FMQ). These briefings were sent to the FMQ team for use in the Chamber, should the First Minister require them, on two occasions in September 2024. The rest of the information within this FMQ briefing is completely out of scope of the response and therefore not relevant.

MISOGYNY

The Scottish Government will introduce legislation to implement the recommendations of the Working Group on Misogyny led by Baroness Kennedy.

- Society as a whole, and the criminal justice system in particular, fails to fully recognise or adequately respond to the problem of misogyny.
- The report presented clear evidence that women and girls are all too often subjected to misogynistic harassment and abuse in everyday life such as when out on the street, at work, or while online.
- The Misogyny Bill will criminalise misogynistic conduct, informed by the public consultation on draft laws to implement recommendations contained in Baroness Helena Kennedy's report.
- The report proposed new criminal law to address the harm of misogynistic behaviour through new powers for police and prosecutors.
- Legislating to address misogynistic behaviours complements the wider work of Equally Safe, Scotland's strategy to prevent and eradicate violence against women.
- The Bill will be informed by responses to last year's consultation on draft legislative provisions to give effect to those recommendations.
- If the Bill is passed by Parliament, we will carefully consider what resources are required for training, public awareness-raising and policing of the new laws.