

Response ID ANON-EK5P-BM88-M

Submitted to Reforming the criminal law to address misogyny
Submitted on 2023-06-08 09:20:57

Chapter 1 - An offence of misogynistic harassment

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

Yes

please give reasons for your answer:

We support the proposal to create an offence of misogynistic harassment because we believe misogyny is a human rights issue and the particular harm caused by misogyny should be considered in law.

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?

Please provide details:

Do you agree that the offence of misogynistic harassment should be capable of being committed in all places (public and private)?

Yes

please give reasons for your answer:

We agree 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 spaces and private spaces.

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

please provide details:

We agree the same provisions for maximum penalty as the Hate Crime and Public Order (Scotland) Act 2021 should be applied for consistency.

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

Yes

please give reasons for your answer:

We agree with the inclusion of a reasonableness defence, to be in-keeping with the Hate Crime and Public Order (Scotland) Act 2021.

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

please provide details:

Chapter 1 (cont.) - An offence of misogynistic behaviour

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?

Yes

please give reasons for your answer:

We support the proposal to create an offence of misogynistic behaviour which does not require that the behaviour is directed at a specific victim because we believe misogyny is a human rights issue and the particular harm caused by misogyny should be considered in law, whether directed at specific or unspecific victims.

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?

please provide details:

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

Yes

please give reasons for your answer:

We agree that the offence of misogynistic behaviour should be capable of being committed in all places with no distinction between what might be described as public spaces and private spaces.

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

please provide details:

We agree the same provisions for maximum penalty as the Hate Crime and Public Order (Scotland) Act 2021 should be applied.

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

Yes

please give reasons for your answer:

We agree with the inclusion of a reasonableness defence, to be in-keeping with the Hate Crime and Public Order (Scotland) Act 2021.

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 the offence of misogynistic behaviour?

Yes

please give reasons for your answer:

We agree the same provisions for freedom of expression as the Hate Crime and Public Order (Scotland) Act 2021 should be applied.

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

please provide details:

Chapter 2 - An offence of threatening or abusive communications to women or girls that reference rape, sexual assault or disfigurement

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'?

Yes

please give reasons for your answer:

We support the proposal to create a specific offence of 'threatening or abusive communications to women and girls which reference rape, sexual assault or disfigurement' because we acknowledge that much misogynistic behaviour and harassment takes place online, and therefore a specific offence regarding communications is appropriate, especially given the seriousness of the threat.

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?

Not Answered

please give reasons for your answer:

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

please provide details:

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?

please provide details:

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

please provide details:

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

please provide details:

It would be preferable to keep in-line with the Hate Crime and Public Order (Scotland) Act 2021 as much as is possible.

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?

please provide details:

It would be worth assessing the impact of privacy and data protection legislation on this specific offence.

Chapter 3 - A new statutory aggravation relating to misogyny

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

Yes

please give reasons for your answer:

We agree that misogyny should be a statutory aggravation because we believe misogyny is a human rights issue and the particular harm caused by misogyny should be considered.

Do you agree with the approach contained in the draft provision that an offence is aggravated by misogyny if:

Yes

please provide details in the text box below:

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 into account of when sentencing the offender?

Not Answered

please give reasons for your answer :

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

please provide details:

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

please provide details:

Chapter 4 - An offence of stirring up hatred against women and girls

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

Yes

please give reasons for your answer:

We agree that adopting the approach taken for the general stirring up of hatred offence contained in the Hate Crime and Public Order (Scotland) Act 2021, is also appropriate when considering stirring up hatred against women and girls.

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?

Yes

please give reasons for your answer:

We agree 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 as this is in-keeping with the approach taken in the Hate Crime and Public Order (Scotland) Act 2021.

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

please provide details:

We agree the same provisions for freedom of expression as the Hate Crime and Public Order (Scotland) Act 2021 should be applied.

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

please provide details:

Chapter 5 - Impact Assessments

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

please provide details:

It would be worthwhile considering whether other protected characteristics have legal protection from 'threatening or abusive communications'. in particular.

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

please provide details:

It would be worthwhile considering whether other protected characteristics have legal protection from 'threatening or abusive communications' in particular.

Do you have any views on the 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?

please provide details:

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

please provide details:

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

please provide details:

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

please provide details:

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

please provide details:

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

please provide details:

About you

What is your name?

Name:

Dawn Exley

What is your email address?

Email:

dawn.exley@scsn.org.uk

Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation:

Scottish Community Safety Network

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response only (without name)

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

I confirm that I have read the privacy policy and consent to the data I provide being used as set out in the policy.

I consent

Evaluation

Please help us improve our consultations by answering the questions below. (Responses to the evaluation will not be published.)

Matrix 1 - How satisfied were you with this consultation?:

Neither satisfied nor dissatisfied

Please enter comments here.:

Matrix 1 - How would you rate your satisfaction with using this platform (Citizen Space) to respond to this consultation?:

Very satisfied

Please enter comments here.: