



Misogyny —
A Human
Rights Issue



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Misogyny — A Human Rights Issue

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Section 1: Introduction and General Summary

Misogyny – A Human Rights Issue

When I was asked to look at the Hate Crime legislation which was being debated in Scotland at the beginning of 2021, the central question was why women were being excluded from the proposed new law. Every other form of malign behaviour towards a specific group seemed to be classified as a Hate Crime, but not malign behaviour towards women. Women were forcefully asking “What About Us?”.

When the Hate Crime and Public Order (Scotland) Act 2021 received Royal Assent in April 2021, Parliament left open the opportunity to use an enabling power, at a later date, to add ‘sex’ to the Act through secondary legislation. I was invited to establish a working group to decide whether this would in fact be an effective way of protecting women. I was also asked to consider the option of creating a separate, stand-alone offence based on misogyny. This idea was finding favour with many women in Scotland and elsewhere, because hate crime legislation is principally designed to protect minorities, and women are not a minority.

I have been a legal practitioner for five decades, and during that time have seen the rising tide of anger over the inability of the criminal justice system to address the violence, abuse and degradation that is so much part of women’s and girls’ daily lives. Debates about the failure of the system to deliver justice for women have

now moved to centre stage, in a climate of increasing polarisation and divisiveness where vicious conduct seems to have exploded, turbo-charged by online disinhibition and social media invasiveness.

Increasingly in recent years, women have broken their enforced silence over the extent to which domestic abuse and sexual violence have blighted their lives and have complained about the inadequacy of the law’s response. As a result, these issues moved up the political agenda. New laws were passed.

There have been many positive changes to criminal justice in Scotland. Significant efforts have been made to improve the law concerning rape, other sexual offences and domestic abuse, in order to achieve justice for women. Unfortunately, many potentially protective laws are hidden away in myriad pieces of legislation and some behaviours are so normalised that law enforcement officials fail to act. We should, too, be mindful that misogynistic acts, threats, harassment or verbal attacks that harm women can constitute violations of women’s human rights contained within the Convention on the Elimination of All Forms of Discrimination Against Women of 1979 and the Council of Europe (Istanbul) Convention on the Elimination of Violence against Women and Girls. It is important that these protections are translated into domestic law and not just seen as aspirational. They are about the daily round of women’s lives and the ways in which women are denied equal treatment.

Despite reforms, women do not get the justice they require and deserve. Women's trust in policing and legal processes is at an all-time low. The combined forces of the #MeToo movement, the historic child sex abuse scandals, the toxic nature of online platforms and the omnipresence of porn have all increased the volume on issues and experiences which were previously surrounded by too much silence. The daily grind of sexual harassment and abuse degrades women's lives, yet it seems to be accepted as part of what it means to be a woman. The failure to understand the ramifications of what is seen as low-level harassment and abuse is just one of the ways in which the criminal justice system falls down for women.

Treating as equal those who are not yet equal only furthers inequality.

The Working Group was established in February 2021 and in the months that followed we examined a large body of oral and written evidence and reviewed extensive research into women's experience of misogynistic conduct. As a result of our work, we are recommending that the Scottish Government creates a specific piece of legislation to protect women from abuses which blight their lives. Scotland has been very active on the eradication of Gender Based Violence. Its strategy, 'Equally Safe', seeks to tackle all forms of violence against women and girls and involves working with stakeholders to prevent violence from occurring in the first place, as well as committing to strengthening the justice response. Our recommendations will add to the range of legal instruments available for that purpose. While it is not normally the role of advisory panels to recommend the titles of legislation, we do advise the creation of a Misogyny and Criminal Justice

(Scotland) Act, as we believe language matters and we wish to focus the minds of those involved in the criminal justice system to create a better understanding of the gendered nature of law.

We propose that this new **Misogyny and Criminal Justice (Scotland) Act** would:

- Create a new **Statutory Misogyny Aggravation** which operates outside of the Hate Crime and Public Order (Scotland) Act 2021;
- Create a new offence of **Stirring Up Hatred Against Women and Girls**;
- Create a new offence of **Public Misogynistic Harassment**; and
- Create a new offence of **Issuing Threats of, or Invoking, Rape or Sexual Assault or Disfigurement of Women and Girls online and offline.**

We do not recommend the addition of Sex as a characteristic to the Hate Crime and Public Order Act (Scotland) Act 2021 as we feel that misogyny is so deeply rooted in our patriarchal ecosystem that it requires a more fundamental set of responses. While not all misogynistic behaviours will be captured by either the Aggravation or the proposed new offences in this Act, the shift in thinking and the reappraisal of certain forms of speech and conduct will contribute to a resetting of cultural norms.

This Act will also depart from the established practice of having law that is neutral with regard to gender. We feel that to eradicate misogynistic crimes these laws have to be targeted at protecting women. Treating as equal those who are not yet equal only furthers inequality.

Misogyny

What is misogyny? Misogyny is prejudice, malice and/or contempt for women. Sadly, it is rife in our society. Literalists cling to the word's origins and insist that misogyny means hatred of women, but it means more than that. The word has evolved to encompass the more widely held attitudes and behaviours that relegate women to a subordinate position and maintain the power imbalance which characterises male/female relations. It is these attitudes - and the conduct which flows from them - which prevent us achieving genuine equality. Make no mistake, actual hatred of women does exist. A recent example is the group of men referred to as incels (involuntary celibates) who now populate parts of the internet, sharing poisonous attitudes about women, threatening and taking violent action. But in conducting this work we relied upon a more general definition of misogyny which acknowledges the patriarchal nature of our society and the many ways in which women are subordinated:

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.

A number of events happened after the Working Group was established which further emphasised the significance of our work and made clear the urgent need to look at the bigger picture in tackling male violence and abuse of women and girls. Sarah Everard's case shook the nation to the core with vigils held in commemoration of her throughout the UK. This was followed by the cruel killing of Sabina Nessa. In the seven months that followed 80 more British women were murdered. Then there was the Plymouth incident in which several people lost their lives in a mass shooting. The perpetrator had links to incel forums, representing extreme misogyny in their content and purpose. The misogyny within police forces has also been exposed, not just with the failure to see the warning signs of dysfunction in the conduct of the police officer who falsely arrested, raped and killed Sarah Everard but in the behaviour of the officers who photographed and circulated images of the bodies of sisters and women of colour Nicole Smallman and Bibaa Henry. The combination of misogynistic and racist attitudes displayed in this instance is particularly toxic.

Over and over women said to us "SOMETHING HAS TO BE DONE."

In general, the law prefers to operate on the basis of neutrality, meaning most laws must be available to men as well as women. However, we would argue that the prevailing belief that the law should be neutral with regard to sex and/or gender disguises the reality that there are particular kinds of behaviour which target women. There has been insufficient examination of the more generally experienced abuses to which women are subjected and which emanate from male behaviour: the daily round of insult and harassment. Let me emphasise, not all men are abusive of women but it is time to

accept that virtually all women have experienced abusive behaviour from men. Good, decent men are already coming onside to examine the root causes of crimes against women and girls and help find ways to eradicate the mindset that make them possible. They too desire change.

Over and over women said to us “SOMETHING HAS TO BE DONE.”

Over and over in this investigation we heard shocking evidence of women and girls being verbally insulted, denigrated, humiliated, touched and groped, undermined and patronised, trolled and objectified online and off, and subjected to threat, harassment and abuse about their looks or desirability. They are at the receiving end of actions that seek to constrain what they can do, or what freedoms they can enjoy. The disinhibited behaviour of men online has transferred to the street and other places.

Cumulatively, the experiences of misogynistic harassment, particularly of a sexual nature, place limits on women's lives. They create a climate of fear and barriers to women and girls fully participating in society and realising their human rights. There is hardly a woman who does not self-safeguard, taking precautions to avoid potential threat, 'risk assessing' from an early age. Girls are warned from childhood that they must avoid putting themselves in harm's way, that it is THEY who must learn behaviours that might afford them protection from predatory or violent men. They internalise the message that it will be their fault if something happens to them. They are on watch throughout their lives, protecting themselves by avoiding dark streets, late nights, solitary walks,

empty lifts. They carry their keys in their hands as a weapon of self-defence. Research from ActionAid UK shows that 88% of young women between the ages of 18-24 take steps to protect themselves against the threat of harassment.

How many men after a night out in the pub with a few male friends ask them to text that they have got home safely? Women do it all the time.

Boys are not schooled in how to avoid putting girls in fear. Men who read this report need to understand that this is the stuff of women's daily lives. Please don't reach for the old lines about no longer being able to tell a mother-in-law joke or say "You look great in that dress, Doris." Women are not talking about benign, and perhaps well-intentioned, comments. Few men actually 'hate' women but many men still harbour deeply ingrained attitudes about male primacy and manifest a deep sense of entitlement with regard to women and their bodies.

Men can be affronted when met with female disinterest or rejection. Masculinity is measured by scoring high in 'pulling' women. Stories from women of being accosted by men who turned nasty when those women refused to engage with them were a feature of the evidence we received. A typical example is the bus stop experience: male attention starts with compliments and an attempted chat up, then turns hostile and aggressive when ignored or turned down, the fear rising in the woman as she looks desperately for a passer-by who might help. Public transport can be treacherous for women because an unpleasant interaction with an over-interested man invokes the fear of being followed from bus to home.

Such abusive experiences can often be compounded for women who belong to one of the minorities, whether because of their race or religion, sexuality,

age, or because they are trans women or disabled women. Women of colour can be met with contempt and hostility on multiple intersecting levels, with racist misogyny or religious misogyny a frequent occurrence. They experience the exclusionary prejudice of one of the established hate crimes as well as misogyny. The evidence we heard suggested that the police had little appreciation of minority life and, for example, placed incidents and crimes involving women of colour on a lower rung of the ladder. Until we address these realities there will never be justice and equality.

The crushing weight of these experiences for women should not be dismissed as too trivial to engage the law. Free speech cannot justify this conduct. For girls it confirms their subordinate status, seeps into their burgeoning sense of self-worth and destroys their self-confidence. Why do we wonder that girls speak less in debates and women do not readily step up and ask for promotion or demand equal pay? The repeated plea to us by those who provided testimony was for a suite of solutions; legislation, public awareness raising, and education to provide the backbone for efforts to implement wider cultural change.

We take the view that antagonism towards ‘kinds’ of women ultimately denies the humanity of women as a whole, and therefore follows the pattern of other hate crimes.

Misogyny is so deeply embedded in our culture that attempting to render it measurable for the purposes of legal sanction might sometimes be problematic if misogyny is not understood. A man may hate women

who dare to challenge the status quo, who proudly display their sexuality, who are opinionated or who are too powerful; or who are successful; or the kind of woman who would not be interested in him or who is too clever by half or is too beautiful or not beautiful enough or too independent.

We take the view that antagonism towards ‘kinds’ of women ultimately denies the humanity of women as a whole, and therefore follows the pattern of other hate crimes.

Freedom of Thought, Freedom of Expression, Hate and Hate Crime

Let us be clear – hate itself is not a crime, much as we would like to drive hateful thinking out of our lives. Misogyny is not a crime. People are free to admire, to love and to hate. We may deplore that people hate others because of their race or their religion or their sexuality or their womanhood but the business of hating is not itself a crime. No child starts life hating; it is learned. It is the conduct that flows from hatred that can be criminal, but what goes on in our heads cannot and must not be criminalised. The Universal Declaration of Human Rights rightly protects Freedom of Thought. We were very clear from the outset that misogyny itself must not be criminalised as it is a way of thinking and freedom of thought must remain sacrosanct. ‘Thought crime’ is the stuff of totalitarianism and people in a free society have to be free to think the unthinkable. To think and dream and imagine is at the heart of human creativity. Once we start punishing people for thought we are invading the ‘forum internum’, that internal space which must be protected against encroachment as therein lies the essence of who we are.

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Freedom of thought, conscience and religion, and freedom of expression must be respected in a democratic society and are protected under Articles 9 and 10 of the European Convention of Human Rights (ECHR) and under Articles 18 and 19 of the International Covenant on Civil and Political Rights (ICCPR). The UK is a party to these treaties and the ECHR is effectively written into Scotland's domestic law by way of the Scotland Act and the Human Rights Act, both of 1998. Testing and challenging orthodoxies and ideas are some of the basic conditions for progress and are at the very core of our concept of democracy. Freedom to hold and impart information and ideas without interference is vital. We have to accept that such information and ideas may offend, shock or disturb us but the demands of pluralism, tolerance and broadmindedness are key to a democratic society. Debate and counter-argument equip us to deal with change and may even encourage us to reconsider our own attitudes, but that freedom does not include conducting the discourse in a hostile manner with no respect for other parties if it unlawfully limits their rights. That is divisive and destructive.

The ECHR and ICCPR allow public authorities to limit our freedom of expression in certain very specific circumstances where the limitation amounts to a proportionate way of achieving a legitimate aim, such as preventing incitement of hatred that is incompatible with a democracy that respects human rights and the dignity of all persons. These limitations

can in certain circumstances include criminalising expression that causes harm and where there is a pressing social need to apply the criminal law. All the recommendations made in this report are intended to fall squarely within the limitations permitted by international human rights law. If enacted, they must also be applied in practice in a way that respects individual human rights.

Let us examine what is really meant by hate crime law. In Scotland, a hate crime is a crime that is proved to have been motivated by, or to have demonstrated, malice and ill-will against the victim based on one or more of their characteristics (or perceived characteristics). Any criminal behaviour can constitute a hate crime and when a hate crime is proved, the judge is required to take that into account when determining the sentence. The judge must also state where the sentence is different from that which they would have imposed if the offence were not so aggravated, the extent of, and the reasons for, that difference, or, the reasons for there being no such difference.

The Hate Crime and Public Order (Scotland) Act 2021 requires judges to take into account the aggravation, in their sentencing for a crime, if it was committed by someone proved to have demonstrated malice and ill-will towards a person and the malice and ill-will are based on the victim's actual or presumed membership of a particular group, defined by reference to a listed characteristic. The listed characteristics are age, disability, race, religion, sexual orientation, transgender identity and variations in sex characteristics. So, if a person assaulted a man perceived to be gay, while verbally abusing him with slurs about homosexuals, the court would be required to take into account the homophobia. The contextual evidence informs whether the aggravation is proved. In most cases

where an aggravation is alleged by the court, the evidence which justifies a tougher response is verbal insult that accompanies the threats or assaults. e.g. “I’m going to fucking bust your cock-sucking mouth, you little queer. You lot should be done in.” Women are asking how that is different from “I’m going to beat you to a pulp, you stuck up cunt; you sluts should be taught a fucking lesson.”

A New Statutory Misogyny Aggravation

We think that harmful conduct which has its roots in misogyny should have consequences. After much debate we think a distinct and separate Statutory Misogyny Aggravation should be made available in new legislation so that a judge has to take account of the misogynistic nature of the conduct when sentencing. This should be possible for most offences such as assault or threatening behaviour or criminal damage or online offences committed under the Communications Act 2003 when there is evidence of misogyny. The offence is considered more serious in these cases and would justify a more grave response. As with other Statutory Aggravations, the Misogyny Aggravation will not require corroboration.

It has been suggested that hate crime, established to deal with prejudice, malice and ill-will towards minorities, does not work particularly well for women. Hate is not a useful concept when it comes to the malign conduct that men display towards women, and the attitudes behind this conduct. We have advised that the Aggravation defines misogyny as being prejudice and / or malice and / or contempt towards women. Ill-will does not describe what men feel when they abuse or degrade women. Our formulation introduces the word contempt with its connotations of scorn, disrespect and disdain.

This contracted definition of misogyny should be set against an understanding of the systemic injustice and inequality that women still face.

The standard of proof is high in criminal matters – beyond reasonable doubt – and women should be aware that introducing this new Aggravation as part of the toolkit to address misogyny will not of itself create the change. A Hate Crime aggravation has not eliminated racism. It is clear to the Working Group that more is needed.

The Working Group was very clear that the new Aggravation should only be available for offences which are not misogynistic by definition, i.e. offences which are not inherently grounded in misogyny. The new Aggravation should be available for all other crime like assault, criminal damage and offences such as threatening behaviour (this includes shouting, swearing, uttering threats, brandishing a weapon all of which might be covered by sections 38 and 39 of the Criminal Justice and Licencing (Scotland) Act 2010) so long as there is evidence of a misogyny. Spitting at a woman and yelling sexist abusive insults at her because she refuses to go for a drink would be threatening behaviour or assault and the court could take the misogyny aggravation into account. The Aggravation should not apply to rape, other sexual offences or domestic abuse which are offences by their nature imbued with misogyny. Use of prostitutes would not be subject to the Aggravation. Indeed, the current legal landscape is being reviewed.

Assaults, as well as all other crimes, which occur in the context of domestic relationships and are thus often

gendered and are already subject to an aggravation. Judges should take into account the background of an existing or former relationship between the parties (see Section 1 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016). Therefore, the Misogyny Aggravation should not apply to crimes where the aggravation in the 2016 Act can be applied.

Rape and sexual assault are grave not least because of the misogyny involved. For decades, women's organisations have been persuading lawmakers to recognise the misogynistic nature of rape, as not merely a crime of lust but of power abuse, and urged courts not to introduce hierarchies of rape, with e.g. rape by a stranger seen as more serious than rape by someone known to the complainer. Sexual offences need separate treatment and laws which recognise their gendered and misogynistic nature. It would be invidious if one rape case drew down the Aggravation and another did not. For a list of sexual offences which would not be subject to the Misogyny Aggravation – i.e. 'carved out' of its remit – we would invoke the lists of sexual offences included in the Criminal Procedure (Scotland) Act 1995 section 210A(10) or section 288C.

The normalising of misogynistic conduct means that the police, prosecutors and judiciary – male and female – often do not recognise transgressive conduct for what it is.

I can already hear concern being expressed that rape is one of the worst hate crimes experienced by women, and one where the justice system fails spectacularly, yet it is not being included in the

hate crime recommendations. Rape is indeed an egregious hate crime where many women are failed by the system. However, that failure is due to the misogynistic attitudes which permeate policing, prosecuting and trial systems, which sustain myths and stereotypes about women, and inform decision-making at every level. Getting down to the subsoil from where misogyny springs is a fundamental task and a real challenge; and that work is what this new Act will embark upon.

What Law is Available?

As mentioned, we conducted our own research and an extensive review of existing research. We also consulted widely. What emerged very clearly was that women did not know that laws already existed which could, potentially, be invoked to tackle some of the misogynistic conduct they experience. They thought they were expected to tolerate bad behaviour, that it would be seen as trivial to complain about frightening, abusive, humiliating, degrading or harassing conduct; they felt that it would be dismissed as a waste of police time. For many of these experiences, women do not want to see men jailed. They just want it to stop. The research undertaken for the Working Group (presented in Section 4 of the main body of this Report) showed that 93.4% of women did not report bad experiences to the police, over 50% because they thought the police would not be interested and the rest because they themselves thought it would seem too trivial.

The normalising of misogynistic conduct means that the police, prosecutors and judiciary – male and female - often do not recognise transgressive conduct for what it is. Nor do they always understand the impact that it has on the lives of those at the receiving

When abusive behaviour is normalised it puts a haze around acts which may be an indicator of worse offending to come.

end. It became clear to us from the evidence that there is an important role for the law in dealing more effectively with the lesser offending behaviour which is endemic, especially if it is of a sexualised nature and in a public place. It echoes ‘the broken windows theory’ of preventing the degradation of housing communities – you get nowhere with the serious stuff if you do not address the lesser stuff. When abusive behaviour is normalised it puts a haze around acts which may be an indicator of worse offending to come.

The group identified important gaps in the current criminal law relevant to the harmful misogynistic conduct upon which it was focused. The Working Group’s proposals for new law are mindful of balancing the need to prevent and respond to this harm with the avoidance of over-criminalisation:

Misogynistic Offences: What New Law is Needed?

As well as the **Statutory Misogyny Aggravation**, we are recommending the creation of three new offences, all of which should be incorporated into the Misogyny and Criminal Justice (Scotland) Act (along with the Aggravation).

1. Stirring Up Hatred Against Women and Girls

The Hate Crime and Public Order (Scotland) Act 2021 creates six new stirring up hatred offences in respect of

age, disability, religion, sexual orientation, transgender identity and variations in sex characteristics. We recommend including in the new Misogyny and Criminal Justice (Scotland) Act the standalone offence of Stirring Up Hatred Against Women and Girls, to tackle, amongst other things, the threat from incel and other extremist groups. Incel communities are bound together by an ideology which preaches hatred of women; the ideology has inspired deadly attacks and there has been a recent six fold increase in visits to incel websites. It shows no sign of disappearing.

2. Public Misogynistic Harassment

The experience of misogynistic abuse and harassment is now at epidemic levels and for this reason we recommend the creation of a new offence of Public Misogynistic Harassment. This new law will expand the scope of the criminal law. It will, in some places, cover behaviour which could already be prosecuted under laws found in varied statutes. However, by introducing an understanding of misogyny, and its pernicious effect, into specific legislation for women, we will concentrate the minds of investigators and prosecutors. Law is complicated and the evidence in every case is different. Prosecutors are experienced in marrying the appropriate legislation to the particular conduct and this offence adds to the range of options available.

Some of those who work within the criminal justice system take the view that laws already exist which should be used to deal with the complaints women are making of threatening or abusive behaviour, including existing laws relating to sexual offences. However, the ‘fair labelling’ of offences is a principle of the rule of law. Law has a symbolic purpose. Women should know that there is law that is clearly there **for them**, for when they experience frightening, humiliating, degrading or abusive behaviour. This offence would not

only respond to harmful behaviour but would also act as a preventative mechanism. Women are subjected in public places to sexual touching and groping, being rubbed up against on crowded buses, sexual talk and descriptions of what men would like to do to them; to groups of men taking loudly in public places about porn, or how they deal with women sexually; women are subjected to hearing themselves described as sluts and tales of nights spit-roasting women.

Women must feel supported in reporting invasive, offensive and harassing behaviour and they should be encouraged to report to dedicated police phone lines, websites or a dedicated App. We agree with the prevailing desire to avoid burdening boys and young men with criminal convictions which can harm their future prospects. However, there will be circumstances in which a prison sentence is appropriate. We recommend that Prosecution Policy considers the availability of Alternatives to Prosecution, including Recorded Police Warnings in relation to this offence when dealing with less serious conduct by the young.

3. Issuing Threats of, or Invoking, Rape or Sexual Assault or Disfigurement of Women and Girls online and offline.

The other offence which we recommend introducing into the new statute is one of Issuing Threats of, or Invoking, Rape or Sexual Assault or Disfigurement which would apply to both private and public conduct. Our aim is to stop the weaponizing of sexually violent language. The use of threats of violation and physical damage to women is growing daily and fills women's lives with fear and distress, limiting their freedom of movement and liberty. Threatening, or invoking, rape has become a commonplace, online and offline. Women in public life receive such threats constantly, but so do schoolgirls.

The use of these threats is different from threats made to men. The threats are often couched in language which is not saying "I am going to come and rape you." More often it is "you deserve to be raped," or "I hope someone comes and rapes you," or "you are too ugly to rape." The threats are implicit and a reminder to women of what the sexual penalty can be for women who incur male antagonism. Perpetrators may have absolutely no intention of carrying out the threats, but their motives are clearly misogynistic; seeking to maintain the subordinate positions of women and girls. Such threats often lead to a 'pile on,' enabled in part by technology algorithms. As with "someone should slash your ugly face, you bitch," it leaves women feeling they can be rendered worthless. Threats to disfigure can of course be experienced widely by men and sometimes threats to disfigure which are made to a woman may not be misogynistic e.g. when a loan shark or drug dealer says he will remove an ear if a debt is not paid. But, issuing a threat of disfigurement is very clearly a way of subordinating women in a world where women are objectified and are constantly told how they look is how they are valued. A threat of an acid attack, or the slashing of a face, however 'credible,' can paralyse a young woman with fear and distress. And for young women in some minority ethnic communities, the threat to disfigure in the context of honour crime or a marriage refusal is well documented. The offence is being created for women because of the nature of the threats used to women, because of the particular harms that are caused, because they are so personalised and play into the fears which women have been schooled to internalise. We urge Parliament to adopt this recommendation.

New technology has created a tidal wave of online abuse and harassment of women and it has given confidence and opportunity to many men who want

to intimidate, harass or belittle. The liberty to do this with impunity has spilled offline into public and private spaces, fuelling a torrent of vile harassment there too. There is no legal definition of cyber bullying and little legislation that can provide adequate protection, especially where abuse is conducted under the cover of anonymity. The Westminster Government is introducing Online Safety legislation but so far it contains no specific reference to women.

The Communications Act 2003 makes it an offence under some circumstances to send indecent or grossly offensive communication with the purpose of causing distress or anxiety. Under Section 127 of the Communications Act 2003 it is an offence to send an electronic message that is grossly offensive or of an indecent, obscene or menacing character. It could, in appropriate circumstances, be subject to the new Misogyny Aggravation. We would also press Scotland to urge the UK Government to enact regulatory measures requiring technology companies to reveal the identity of anonymous online abusers when their conduct is grave enough to involve criminal investigation and to bar from social media those who repeatedly abuse.

We are advocating that women should be encouraged to report misogynistic crimes of all kinds, even where they themselves cannot name the perpetrator or where they feel the matter is unlikely to proceed to court. Having no agency in the face of misogynistic conduct is one of most distressing aspects of the experience. The reporting of Misogynistic Aggravated Crime, and the new offences, will allow for the collection of statistics of harassment and a proper analysis of the conduct women are experiencing and where it most often occurs. These data and insights would be at the heart of training programmes within the police, schools, universities and the legal profession.

Our recommendation is that this new law should be created exclusively for women, and those perceived to be women, reflecting the inherently gendered nature of the problem we have been asked to address. The emphasis of such law is to shift the focus from women as victims to the men who perpetrate these crimes.

These proposals do not infringe on the principle of equality before the law, enshrined in international human rights law and domestic law. The huge body of evidence presented to this Working Group, presented in this Report and its annexes, leaves us in no doubt that women and girls need protecting from misogynistic conduct and that separate law can be justified.

The emphasis of such law is to shift the focus from women as victims to the men who perpetrate these crimes.

People who are gender-fluid will say that women only law simply embeds the gender binary within our current society but we have to deal with our current world, which is racked with epidemic levels of violence and abuse against women and girls. If misogyny is not addressed, there will never be an equal society and there will never be acceptance of anyone who does not conform. Misogyny is about making women conform and stay in line; misogyny is a problem at the very core of society. Until that is fixed, no-one will enjoy real freedom to be who they are.

Laws Worth Fighting For

The invitation to consider misogyny and the law might be considered by many as a hospital pass. Why would anyone step into this hostile territory? I have spent my life arguing for legal reform to create systems where people can be treated without discrimination and with equality and justice. Hatred always stems from seeing certain 'others' as 'lesser' beings. Since the 1970s I have fought for women's rights but I have also fought against class bias and racism and religious bigotry and homophobia. I have been a strong advocate for justice for trans people, having acted in a number of cases involving the most egregious persecution of those who have changed their gender identity. I was leading counsel in the first trans case in an international court – the European Court of Justice; we won my client's case of sex discrimination when she asserted her right to live as a woman. I have acted for a young trans woman who was raped, then ridiculed by police, and when she withdrew her complaint, knowing she would be humiliated in the witness box, she was prosecuted for perverting the course of justice and wasting police time. Trans people suffer unimaginable abuse and discrimination and that should not be minimised. Trans women face misogyny as well as prejudice about their change of gender. Disabled women, young and elderly women, LGBTI+ women and women of colour all face prejudice alongside misogyny. The law should seek to protect as many people as possible. I should also probably add that most of my clients over the years have actually been men and I have sought justice with vigour for them too.

When the Scottish parliament was legislating for Hate Crimes, a very heated debate arose over the nature of the characteristic which defines women. Should it be Sex or Gender? Couldn't it be both?

For an initiative that was designed to reduce hatred it seemed to stimulate it. Surely, we can find better ways of respecting our common human-ness? Discussions have to be less polarised and language less provocative. Misogyny rooted in biological sex does exist, for example Female Genital Mutilation (FGM) or forced pregnancy but so too does misogyny based on actions, behaviours or expression, for example "wearing a mini-skirt means she was asking for it." The task of our Working Group was not to be the referee in this debate about 'who is a woman?' but to consider whether the law has a role in combatting misogyny. If a definition of 'a woman' has to be found, it is for the legislature to do this, but it is our preferred view that no offence should be created that requires a woman to prove that she is a woman.

All the evidence shows that while it is important for law to have the capacity to deal with crimes aggravated by the added element of hatred, it would be misleading to tell women that being included in a list of characteristics for hate crime would eliminate or even greatly reduce the huge amount of abuse experienced by women. Much more is needed. This is why we are recommending a range of legal responses.

It is our preferred view that no offence should be created that requires a woman to prove that she is a woman.

Law matters in a society. It tells us who we are, what we value, who has power and who hasn't. It controls conduct which could threaten our safety and security and establishes the rules by which we live. There is no doubt that the position of women has changed radically over the last decades but a lot of male

behaviour has not adapted and has in fact become even more threatening because of social media.

Law has a central role to play in this landscape, and legal systems must adapt if they want to gain the confidence of half the public. We are advocating legal reform because the power of the law in **marking** certain conduct as criminal cannot be underestimated. The law and the justice system play a crucial role in securing equality. Law that is failing half the public is seriously failing. It is right to say that something like misogyny can only be challenged through a serious cultural shift across society but law has a key role to play in effecting that sea change. New laws do not create trust but the visible prioritising of women's concerns and the building of a criminal justice system where misogyny is really understood is a start.

Scotland has proudly led the way in many areas concerning women's rights and violence against women; the zero tolerance campaign on domestic abuse, for example, was initiated here. Scotland was at the fore and set the gold standard in recognising that coercive, emotional and financial control was a form of domestic abuse. The reforms recommended in this report are also innovative, change-making and radical.

It is admirable and right that Scotland holds the ambition of ridding itself of misogyny altogether. It is an ambition for serious social change. It will be no mean feat but making a strong start by creating new laws, specifically created for women, will be a clear declaration of intent. These recommendations are intended to reach deeper into the foundations of inequality. They are purposely framed to create a profound shake-up. There will undoubtedly be opposition from those who are wedded to the old order. But men and women who want a better society for themselves and for future generations will embrace the spirit if not the letter of this Report. Change has to come and society is ready for it.

Law that is failing half the public is seriously failing.

Baroness Helena Kennedy QC

I was given free rein to choose my own Independent Working Group and I wanted some strong legal input. I chose three formidable women lawyers Shelagh McCall QC, Dr Chloë Kennedy of Edinburgh University and the esteemed international lawyer, Susan Kemp, formerly of the Scottish Human Rights Commission. Emma Ritch the incisive Director of Engender joined us to represent a respected Scottish civil society organisation. Emma's sudden death in June was shocking to us all and a tragic loss to our work but we had the great good fortune in her replacement, Eilidh Dickson, who became a vital contributor. And to provide expertise on addressing male violence, Professor John Devaney also of Edinburgh University was persuaded to join the team. For good measure, I invited the very distinguished Mona Rishmawi of the United Nations to be an observer at our meetings where her global insights were of real value. Finally, I have had the benefit of advice from the Crown Office and Procurator Fiscal Service (COPFS) who have engaged with the Working Group within an advisory capacity. Jamie Lipton, the COPFS advisory representative, has attended regularly at meetings and offered practical input regarding the prosecution of crime in Scotland to support Working Group members in the formation of the recommendations contained within this report. It was a wonderful stimulating group of people and I am indebted to them all. The Working Group was supported by an impressive team of Scottish Government officials and researchers, led by Saira Kapasi and Bill Brash to whom I pay a special tribute. I am also indebted to a brilliant social analyst, Laura Harrison, whose work with me in creating this Report has been central.



Section 2: Approach

2.1 Working Group Remit

The Working Group's remit was developed from a number of sources including the first report of the First Minister's National Advisory Council on Women and Girls which included a recommendation to 'criminalise serious misogynistic harassment, filling gaps in existing laws'.

In response to this recommendation, and calls from women's organisations to explore this issue in more detail, the Working Group was established under independent leadership to consider how the criminal law deals with misogynistic harassment, including whether there are gaps in legislation that could be filled with a specific offence on misogynistic harassment.

The remit was split into three phases as follows:

Phase One

Build a picture of the experiences of women and girls in Scotland and internationally, applying a gender analytical lens, through the consideration of existing data sets, literature reviews and lived experience. Set out the principles which will support a shared understanding of how these experiences are influenced and/or driven by misogynistic behaviour and/or attitudes and where this behaviour is, or should be, a criminal offence. Expertise will be commissioned as required to support decisions by the Group.

Phase Two

Consider the outputs of Phase One and map these onto the criminal law in Scotland as it stands. Identify whether there are gaps in the existing law and/or where there is a failure to implement existing legislation in a way that protects women and girls. Consider the legal practice in Scotland and internationally that offers the best protection for women and girls and examine how misogyny may be best tackled through a legal lens.

In addition, the Group will consider whether sex should be included within the hate crime framework to be introduced at a later and appropriate date, following introduction of hate crime legislation.

Phase Three

Work collaboratively to develop a specific definition of misogyny within a Scottish legal context, taking account of behaviours that already fall within criminal law and actions that can be taken out with the criminal law to address women's experiences relating to misogynistic behaviour or inequality, challenge men's behaviour and wider societal attitudes.

2.2 Working Group Membership

Working Group members were appointed in January 2021 and the first meeting of the Working Group was held in February 2021. Group meetings of members were held regularly and applied the Chatham House Rule¹ in order to encourage full and frank discussion. The Working Group comprised experts in Scots law, international human rights law, women’s equality and perpetrator behaviours relating to gender-based violence (see below).

Baroness Helena Kennedy QC (Chair)
 Professor John Devaney
 Eilidh Dickson (from August 2021)
 Susan Kemp
 Dr Chloë Kennedy
 Shelagh McCall QC
 Emma Ritch (until July 2021)

Advisory or Observatory status:
 Jamie Lipton
 Mona Rishmawi

The Working Group was supported by a Secretariat of Scottish Government officials, led by Saira Kapasi and Bill Brash. The support provided, based on the group members’ requests, included correspondence, organising meetings and the presentation of oral evidence from 20+ experts (see Appendix 1), as well as aiding the Working Group in ensuring it had considered a wide evidence base in reaching its conclusions and recommendations. Personal views

of Ministers and positions of political parties were not among the evidence base considered by the Group. The process of evidence gathering and presentation involved:

- Gathering **new** evidence and insights:
 - Conducting a survey of Lived Experiences of misogyny in Scotland (see separate publication ‘Lived Experience Survey Analysis’).
 - Seeking input from women’s groups, academics, policy experts and Police Scotland on key questions (see Appendix 1 which also lists those invited who opted not to give input).
 - Facilitating the Working Group in mapping the findings from the Lived Experiences survey to existing criminal legislation.
- Gathering and presenting **existing** evidence and insights:
 - Collating and presenting definitions of misogyny from academics, policy makers and practitioners.
 - Collating and presenting evidence on misogyny and how it is experienced in public spaces, online, in the workplace, in education settings, and violence against women.
 - Presenting the Working Group with evidence on international approaches to tackle misogyny through legal interventions and other initiatives.

¹ [Chatham House Rule | Chatham House – International Affairs Think Tank](#)

2.3 Questions Considered by the Working Group

The Working Group approached the remit of this Review by working through the following questions:

2.3a What is misogyny?

In his Independent Review of Hate Crime Legislation in Scotland, Lord Bracadale states:

“The term ‘misogyny’ is used a lot in the context of the debate about offending based on gender. This is a term which has changed in usage over time. In its second edition (1989), the Shorter Oxford English Dictionary defined misogyny as “hatred of women”. This was updated in the third edition (2002) to “hatred or dislike of, or prejudice against women.” Many women’s organisations incorporate a sense of imbalance of power when articulating what is meant by misogyny. For example, Engender define it as “systems or actions that deliberately subordinate women, and reflect the actor’s understanding that women are not their equals.” Some people treat the terms ‘misogyny’ and ‘sexism’ as synonymous, while others would argue that misogyny is often more targeted or negative and used to assert male dominance over women. It was apparent to me in the course of this review that different people use the term misogyny to mean slightly different things, and I suspect that its meaning may continue to evolve over time. I have used this language in the remainder of this part to reflect what I have heard, but where it is used in debate and discussion I would urge caution in considering exactly what is meant in the particular context.”²

² [Independent Review of Hate Crime Legislation in Scotland, 4.12, pp34](#)

Given the remit of this Working Group, it was essential first to progress from ‘...people [using] the term misogyny to mean slightly different things’ to a clear working definition that could anchor discussions and recommendations. The creation of this definition involved seeking guidance from academics and experts with a determination to move on from the literal and etymological notion that misogynistic behaviour stems from ‘hating women’. The notion of hatred in this context fails to capture the way in which the term ‘misogyny’ is now being used to describe thoughts or feelings that result in behaviours that routinely, rather than exceptionally, undermine, devalue or degrade women and girls. The Working Group recognised that many perpetrators of what could be characterised as misogynistic behaviour would claim to love women, may well live with women or have relationships with women – daughters, sisters, wives, partners. After all, Donald Trump has claimed to ‘love women’³ but also appears unashamed to have been recorded describing how his power enables him to “Grab ‘em [women] by the pussy. You can do anything.”⁴

2.3b What Behaviours and Harms Fall within the Definition of Misogyny?

Having achieved this working definition, the Working Group went on to consider what behaviours and harms fell within this definition. The Secretariat to the Working Group conducted a survey to gain deeper insights into these behaviours and harms, the characteristics of the victims of these harms and the contexts in which they occur. In depth findings from this survey can be found in the ‘Lived Experience Survey Analysis’ (published separately).

³ [How Trump talks about women - and does it matter? - BBC News](#)

⁴ [Transcript: Donald Trump’s Taped Comments About Women - The New York Times \(nytimes.com\)](#)

2.3c Protections Under the Current Law and Protections Provided in Other Jurisdictions

The Working Group then examined the degree to which existing law and its application by Police Scotland, Crown Office and Procurator Fiscal Service and the courts protects society from misogynistic behaviour (within the working definition) and where gaps exist. The Working Group also sought to understand what could be learnt from other jurisdictions and initiatives, within and outwith the criminal law.

In considering the current law, the Working Group also discussed the fit of both Scotland’s existing hate crime legislation (Hate Crime and Public Order (Scotland) Act 2021) and the broader framework or concept of ‘hate crime’ to the context, behaviours and harms that were revealed in discussion of the evidence.

2.4 Shared Premise: Equally Safe and Violence Against Women and Girls

The vision and objectives of Equally Safe, Scotland’s strategy to prevent and eradicate violence against women and girls, were foundational to this Review. Equally Safe’s definition of violence against women and girls points to a wide spectrum of behaviours as well as, implicitly, by describing this violence as gender based, to the power imbalances between men and women that enable and perpetuate these acts of violence:

“Violence against women and girls encompasses (but is not limited to):

- physical, sexual and psychological violence occurring in the family (including children and young people), within the general community or in institutions, including domestic abuse, rape, and incest;

- sexual harassment, bullying and intimidation in any public or private space, including work;
- commercial sexual exploitation, including prostitution, lap dancing, stripping, pornography and trafficking;
- child sexual abuse, including familial sexual abuse, child sexual exploitation and online abuse; and
- so called ‘honour based’ violence, including dowry related violence, female genital mutilation, forced and child marriages, and ‘honour’ crimes.”⁵

The considerations and recommendations of this Review are wholly aligned with, and complementary to, the vision and objectives of Equally Safe.

Further, the Working Group was mindful of the work of Liz Kelly and others on the spectrum of sexual violence, as neatly captured by Megan Hoyt:

“not all manifestations of patriarchal control look or feel violent. Some may seem relatively trivial, however, when connected to the broader spectrum of violence the reality is that many women may experience even ‘minor’ events as threatening”⁶

2.5 Who is this Report For?

This report was commissioned by the Scottish Government and, of course, its recommendations are for them. However, the Working Group’s hope is that this report will be both a provocation and an inspiration to those who work in the criminal justice system, in education and business leadership as well as those with policy influence within, and beyond, Scotland.

⁵ [Equally Safe: Scotland’s strategy to eradicate violence against women - gov.scot \(www.gov.scot\)](https://www.gov.scot/resources/documents/2021/03/Equally-Safe-Scotland-s-strategy-to-eradicate-violence-against-women-gov.scot)

⁶ Megan Hoyt, Meeting with Scottish Government, 9 March 2021

Section 3:

Defining Misogyny; Going Beyond the Classics

3.1 The Challenge

Whilst the genesis of this Review was a question of whether a sex characteristic should be added to the Hate Crime and Public Order (Scotland) Act, the Working Group determined that it needed to go further than providing a simple yes/no response. From the outset of this Review, the Working Group agreed with Lord Bracadale:

“[Offences] which adhere to the principle that crimes motivated by hatred or prejudice towards particular features of the victim’s identity should be treated differently from ‘ordinary’ crimes”⁷

And the Working Group agreed that the ‘particular features of the victim’s identity...’ should include women, or those who perpetrators perceive to be women. The Working Group’s question was **how** best to provide protections to women in Scotland - without minoritizing them, without creating potentially unrealistic evidential burdens (recognising the centuries old power disparities between men and women) and ensuring that what is captured is the kind of behaviour that increasingly society is terming ‘misogynistic’.

Misogyny is hard to define. And like many abstract

concepts, whilst it may be difficult to define, many people feel they ‘know it when they see it’ (or hear it, or feel it). The classical definition of misogyny (from Greek *misos* ‘hatred’ + *gunē* ‘woman’) was inadequate for the task of the Working Group. Of course there are incidents of criminal behaviour that are clearly motivated by hatred of women; a point brought home tragically in Plymouth in 2021 when five people were killed by an individual who police found to have engaged with “the incel movement.”⁸

However, it would be a challenging idea to many that ‘hatred’ is the motivation for, what the evidence reveals to be, the routine grind of harassment, humiliation and degradation that women experience in Scotland (and around the world). A cat-call or an invasion of a woman’s personal space may not seem like a manifestation of hatred. In fact, the cat-caller, or the individual who comes too close, may consider their behaviour to be ‘a compliment.’ But the evidence collected by the Working Group, and presented later in this report, shows that the perniciousness of these ‘compliments’ impacts the confidence, wellbeing and economic progress of women everywhere.

So whilst this Review does consider how criminal behaviour motivated by a hatred of women, that harms not just that woman, but women – and society

⁷ [Independent review of hate crime legislation in Scotland: final report - gov.scot \(www.gov.scot\)](https://www.gov.scot/resources/documents/2022/04/Independent-review-of-hate-crime-legislation-in-Scotland-final-report-2022-04-20.pdf)

⁸ [Plymouth shooting: police focus on ‘incel’ links as shop CCTV tape emerges | Plymouth shooting | The Guardian](https://www.theguardian.com/uk-news/2021/nov/19/plymouth-shooting-police-focus-on-incel-links-as-shop-cctv-tape-emerges)

– in general – should be treated, it has gone wider. It is clear from the public discourse that the term ‘misogyny’ has come to mean more than ‘hatred of women’ and that it is being used to describe an elusive (in definitional terms) but pervasive (in experiential terms, as the evidence presented later in this report shows) experience of women.

Prince Harry the Duke of Sussex has invoked misogyny to say:

“Maybe people know this and maybe they don’t, but the term Megxit was or is a misogynistic term, and it was created by a troll, amplified by royal correspondents, and it grew and grew and grew into mainstream media...”⁹

Justice Minister Keith Brown has highlighted steps to end a culture of:

“canteen misogyny”¹⁰
“within Police Scotland”

In the context of Dame Elish Angiolini’s independent review of complaints about the police and the successful victimisation claim by Rhona Malone, Chief Constable Iain Livingstone said the force’s hiring and promotion protocols were based on values which:

“stand against any discriminatory or misogynistic mindsets or behaviour.”¹¹

In all of these cases, it is doubtful that the term misogyny is being used to describe an active **hatred** of women. Those royal correspondents who use the term ‘Megxit,’ men who make derogatory jokes about women in a staff canteen, or recruiters who make decisions that disadvantage women are unlikely to recognise the idea that they hate women. They may well love many women – their partners, wives, sisters, daughters. But this does not mean that the ‘canteen misogyny’ or the undermining of a woman in the public eye is harmless.

In fact, one dimension of misogyny that the Working Group sought to include in its definition is captured in Police Scotland’s film ‘That Guy’¹², launched with Deputy Chief Constable Malcolm Graham, Police Scotland’s explanation that:

“We want all women to be free to live their lives without worrying about their safety...”

The film references wolf whistling, staring, giving of persistent and invasive ‘compliments,’ and wondering why the response to the ‘compliment’ isn’t ‘thank you.’ These are all behaviours that the Working Group sought to bring within its definition. The film appears to acknowledge and challenge sexual entitlement and to work from an understanding that, unchecked, attitudes of sexual entitlement can escalate quickly into violence, in alignment with the thinking and objectives of Equally Safe.

Regardless of the challenge, creating a definition of misogyny was an important part of the Review process. As outlined above, misogyny is being talked about across traditional and social media.

⁹ [Prince Harry says ‘Megxit’ is a misogynistic term aimed at his wife Meghan | Prince Harry | The Guardian](#)

¹⁰ [Police Scotland: Hundreds of recruits fail force vetting | The National](#)

¹¹ [Police Scotland review ordered after tribunal’s ‘sexist culture’ findings - BBC News](#)

¹² [Guys: do you recognise yourself in our 60 second That Guy campaign film? - YouTube](#)

Furthermore, providing definition can, of itself, be empowering. As Rebecca Solnit, the author and activist whose work is associated with the widespread adoption of the term ‘mansplaining,’¹³ has commented:

“I used to be ambivalent, worrying primarily about typecasting men with the term [mansplaining]. (I have spent most of my life tiptoeing around the delicate sensibilities of men, though of course the book *Men Explain Things to Me* is what happens when I set that exhausting, doomed project aside.) Then in March a PhD candidate said to me, no, you need to look at how much we needed this word, how this word let us describe an experience every women has but we didn’t have language for.

And that is something I’m really interested in: naming experience and how what has no name cannot be acknowledged or shared. Words are power. So if this word allowed us to talk about something that goes on all the time, then I’m really glad it exists...”¹⁴

“And that is something I’m really interested in: naming experience and how what has no name cannot be acknowledged or shared. Words are power. So if this word allowed us to talk about something that goes on all the time, then I’m really glad it exists...”

¹³ [Cambridge Dictionary: to mansplain, to explain something to someone in a way that suggests that they are stupid; used especially when a man explains something to a woman that she already understands](#)

¹⁴ [‘Mansplaining, explained: ‘Just ask an expert. Who is not a lady’ | Jessica Valenti | The Guardian](#)

3.2 Definition Considerations

3.2a Academic Definitions of Misogyny

In looking for a relevant definition, one that starts to address the inadequacies of the idea that misogynistic behaviour is enacted by ‘men who hate women,’ the Working Group considered the view of academics, including the philosopher Kate Manne, who argues that misogynistic behaviour is not just a result of a particular individual’s thoughts at a point in time, but is an enduring social phenomenon. Manne defines misogyny as:

“primarily a property of social environments”

i.e. an ‘ownership’ of or ‘entitlement to’ the spaces in which women lead their lives. Manne challenges the

“naive conception that misogyny is a psychological condition of individual men”¹⁵

The Oxford English Dictionary (OED) only in part recognises the idea that misogyny is a property of social environments, defining misogyny as:

“dislike of, contempt for, or ingrained prejudice against women”

Prejudice is perhaps a more helpful idea than hatred when thinking about misogyny, suggesting as it does unreasonable thought or opinion formed without enough thought or knowledge.¹⁶

¹⁵ Ibid

¹⁶ [Cambridge Dictionary](#): prejudice, noun, an unfair and unreasonable opinion or feeling, especially when formed without enough thought or knowledge.

Cynthia A Stark's definition was also of interest to the Working Group:

“Misogynist hostility is delivered by people when they do such things as adhere to culturally condoned scripts, conform their actions to the reigning ideology, participate in rituals, traditions, and long-standing practices, etc. Hence, people may enact it unwittingly—they may not harbor overtly misogynist attitudes and may not be aiming to enforce patriarchal norms.... Misogyny is a collective phenomenon then, insofar as, first, it is delivered through a collection of ordinary actions. Second, its collective aim, as it were, may be distinct from the aims of the individuals engaging in those actions, but is nonetheless achieved through those individual actions. Third, it affects women as a collectivity—as a group.”¹⁷

Prompted by Stark's definition, the Working Group was inclined to contrast an individual's deliberate, considered misogynistic behaviour with behaviour 'enacted unwittingly' but which nevertheless expresses an underlying shared set of assumptions that sit far beneath conscious, individual thought. In addition, the Working Group agreed that the impact of misogynistic behaviour stretches far beyond the specific victim of the specific action; it impacts women as a group by reinforcing 'patriarchal norms'. In other words, there is a corrosive impact of misogynistic behaviour on women as a group and therefore, it can be argued, on society as a whole.

Allan G Johnson described misogyny as something that:

¹⁷ Cynthia A. Stark, 'Gaslighting, Misogyny and Psychological Oppression', *Monist*, 102(2), 2019

“...fuels men's sense of superiority, justifies male aggression against women, and works to keep women on the defensive and in their place”¹⁸

And Meghan Hoyt, building on Liz Kelly's work on the spectrum of sexual violence,¹⁹ reminded the Working Group that:

“not all manifestations of patriarchal control look or feel violent. Some may seem relatively trivial, however, when connected to the broader spectrum of violence the reality is that many women may experience even 'minor' events as threatening”²⁰

3.2b Definitions of Misogyny from Practice

Consideration was also given to definitions of misogyny that had been used in practice. In 2016, Nottinghamshire Police Force, a ground-breaking initiative by the Chief Constable Sue Fish began recording misogynistic hate incidents (see 'Nottinghamshire Police Pilot' Annex 1). In order to do so, a shared understanding of these 'hate incidents' was needed.

The definition used was:

“incidents against women that are motivated by the attitude of men towards women and includes behaviour targeted at women by men simply because they are women.”

Incidents recorded have included acts of violence and damage to property, as well as street harassment,

¹⁸ Johnson A.G. (2014) *The gender knot: Unraveling our patriarchal legacy*, Philadelphia, PA

¹⁹ L. Kelly (1988) *Surviving Sexual Violence*, Polity Press: London

²⁰ Megan Hoyt, Meeting with Scottish Government, 9 March 2021

including cat calling and wolf whistling.²¹

Scottish Women's Aid's definition of domestic abuse provides a useful framework for the definition of a complex concept. The definition begins:

“Domestic abuse is a pattern of controlling, coercive, threatening, degrading and / or violent behaviour, including sexual violence, by a partner or ex-partner. Domestic abuse is overwhelmingly experienced by women and perpetrated by men. It doesn't matter how old someone is, what race or ethnicity they are, what class they are, whether or not they are disabled, or whether they have children – anyone can be a victim of abuse...”

The definition usefully:

- Describes the behaviour ('a pattern of controlling, coercive, threatening, degrading and / or violent behaviour, including sexual violence').
- Describes the perpetrator of the behaviour ('...by a partner or ex-partner...').
- Describes the usual characteristic of the victim and perpetrator ('Domestic abuse is overwhelmingly experienced by women and perpetrated by men. It doesn't matter how old someone is...').

Equally Safe bases its definition of gender-based violence on the UN Declaration on the Elimination of Violence Against Women and as:

'... a function of gender inequality, and an abuse of male power and privilege. It takes the form of actions that result in physical,

sexual and psychological harm or suffering to women and children, or affront to their human dignity, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life. It is men who predominantly carry out such violence, and women who are predominantly the victims of such violence. By referring to violence as 'gender based' this definition highlights the need to understand violence within the context of women's and girl's subordinate status in society. Such violence cannot be understood, therefore, in isolation from the norms, social structure and gender roles within the community, which greatly influence women's vulnerability to violence.'

In addition to describing the behaviour, victims and perpetrators associated with gender based violence, this definition considers the relative power and status of men, women in society and the gendered nature of the norms and structures that govern day to day lives.

3.3 A Workable, Working Definition of Misogyny

Considering all of the above, the Working Group sought a definition which:

- Situates misogyny in the relative powers of men and women and reflects the impact on women of this power imbalance.
- Considers the underlying belief system, or norms, in addition to deliberate, conscious thought at the time of any action or behaviour.
- Makes it clear that misogynistic behaviour stems from, and props up, this underlying belief system and can include a wide range of behaviours - not

²¹ [Home Affairs Committee, Hate crime: abuse, hate and extremism online, 25 April 2017, HC 609](#)

restricted to apparent acts of hate - from spiking drinks in a bar 'for a laugh,' to stealthing (secretly removing a condom during sex without the other person's consent - 'for more pleasure'), catcalling (or 'complimenting'), as well as making unwelcome or unwarranted advances to women as they go about their daily lives.

- Recognises that this shared belief system is not the unique preserve of men – both women and men are subject to the social and economic forces that influence the relative powers of men and women, the according status that they are afforded and the ensuing assumptions about their entitlements to go about their lives freely and uninterrupted.

As a result, the Working Group came to the following definition:

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.

This definition is **deliberately non-legal** and provided the Working Group with a starting point from which to consider the degree to which current law protects women from the behaviours it encompasses.

The definition makes it clear that misogyny is not about seeking to exclude women from society; it is not about wanting to banish them from communities. Misogyny, as defined, allows for women's inclusion, but on patriarchal terms.

The Working Group's definition of misogyny therefore covers behaviour that could be seen to stem from a hatred of women, such as the throwing of a brick through the window of woman feminist activist whilst screaming "I hate all you fucking women..." or a man driving his car into a women's rights protest having just declaimed 'incel' ideology on-line. But just as importantly, it covers behaviour that stems from a feeling of entitlement to, amongst other things, attention, goods, money, opportunity, care, love and sex – from women. It covers behaviour that acts to limit the power and freedom of women – including their freedom to move through spaces – both physical spaces (parks, streets, educational and political institutions, work places) and digital spaces - with the same feelings of security and safety as men.

Section 4:

Living with Misogyny; Where it Happens, Who it Happens to, and the Harm it Causes

4.1 Experiences of Women and Girls: Findings from the Working Group's Survey and the Wider Body of Evidence²²

"[I was called] a fucking whore when I politely told the man chatting me up in the pub that I was married."

"Since I have become disabled this [harassment] happens so much more. I had a man on a train telling me 'ooh love did someone fuck you too hard and now you're broken?' I was so scared."²³

"It's like a constant cycle, we're [girls/women] always facing sexual harassment in some way whether it is just in the street or in town or wherever. I think there is still a long way to go [for women's rights in the UK]."²⁴

"Since the age of 13, I had been experiencing boys looking up my skirt and lifting my kilt up... On quite a few occasions I knew that they were taking photos up my kilt too but I was too embarrassed to say anything. We never had the option to wear trousers to prevent it."²⁵

"There were so many instances of sexual harassment and assault at school, it's hard to even know where to begin."

"I was waiting for a bus outside my house and two guys (late teens-early 20s) yelled 'Oi ugly, want a shag?' I was 11."²⁶

"Thirteen year old school boys followed a thirteen year old school girl asking what sexual positions she liked, how many times she had had sex etc. When she refused to answer they called her a slut and told her she didn't deserve to breathe the same air as men. This was on the school playground... I reported it only to be told 'boys will be boys... it's just banter... they will grow out of it.'"

"I have been whistled at and catcalled numerous times in the street, once a group of men passed me and one of them grabbed their crotch and asked if I wanted a taste of their sausage."

"I've never experienced harassment like I did then [at school]. Men would ask if they could take picture with me in my uniform. It was awful, before that I used to be walking home, and I was so scared walking home."²⁷

²² All quotations are from the Lived Experiences of Misogyny in Scotland Survey (published separately) apart from whether otherwise stated.

²³ [When will women feel safe on UK streets? | Crime | The Guardian](#)

²⁴ [Sophie, age 18, Glasgow, Plan International UK, Street Harassment, It's Not OK, 2018](#)

²⁵ [Sex pests at more than 120 Scots schools as girls reveal toll of attacks and harassment - Daily Record](#)

²⁶ [When will women feel safe on UK streets? | Crime | The Guardian](#)

²⁷ [Ffion, age 25, Edinburgh, Plan International UK, Street Harassment, It's Not OK, 2018](#)

“When I was at college, two men called me names and made fun of me, they said sexual things to me too... I was bullied a lot and the lecturers would not do anything about it so I dropped out of college.”²⁸

“Being threatened by a man in a pub for not laughing at what he thought was a funny remark.”

“You whore; I will pour acid onto your face but the kids will also pay.” [Days later] “Be aware that you are not going to look in the mirror ever again.”²⁹

“Myself and a female partner were out running and a group of young people were walking towards us.. one of the young men started shouting... specifically lesbophobic misogyny – so shouting ‘fucking lezzies.’”

“I had a man undo my halter neck top from behind in a club, had never seen him before.”

“I have experienced death/violence/rape threats on-line for speaking up.. about street harassment. One man tweeted that they would love to watch me getting my teeth kicked in, many others said I was too unattractive for my experiences to be true, they didn’t believe it had happened.”

“We are going backwards... all the time.. routinely I see young women humiliated...”³⁰

“I have been called a slut in a car park because I accidentally moved my trolley too close to a man’s car.”

²⁸ Collective National Response to the Working Group from People First (Scotland) Women’s Groups (A Disabled Person’s User Led Organisation)

²⁹ [Greenford: Ex-boyfriend threw acid on woman after terrifying balloon threat | Evening Standard](#)

³⁰ Working Group guest

These quotations represent a tiny fraction of the stories of women and girls that surfaced through this Review, through the Lived Experience Survey Analysis (published separately) and the collation of existing evidence. It is tempting to think of them as extremes or exceptions – the rare occasions when the fabric of society has become stretched and torn. But the evidence presented to the Working Group suggests differently. Even before specific research was undertaken for this Review, the following was known:

A Girlguiding research brief, tellingly named ‘It Happens All the Time,’³¹ found that 67% of girls and young women have experienced sexual harassment from other students at school. The brief also reports that the chance of girls experiencing harassment significantly increases as they progress through secondary school, with 59% of girls aged 13 to 16 having experienced harassment and 83% of 17- and 18-year-olds having suffered some form of harassment.

“There were so many instances of sexual harassment and assault at school, it’s hard to even know where to begin.”

Further, in its Girls’ Attitudes 2021 survey,³² Girlguiding found that 71% of girls and young women surveyed between the ages of 7 and 21 had experienced some form of harmful content while online in the last year. In an older category (of 11-21 year olds), 82% of experienced some form of on-line harm in the

³¹ [Girlguiding Research Briefing: Girls Experiences of Sexual Harassment, June 2021](#)

³² [Girlguiding: Girls’ Attitudes Survey 2021](#)

same period. 50% was sexist comments, 28% was harassment and 21% was bullying.

UN Women UK's research published in March 2021³³ found that only 3% of 18-24 year-olds reported having not experienced any of the types of sexual harassment listed in the survey. The most common forms of harassment experienced were catcalling/wolf whistling, being stared at in a way that made them feel unsafe or uncomfortable, unwelcome touching, body rubbing or groping and in-person comments or jokes that made them feel unsafe or uncomfortable. More than 95% of women did not report these incidents. The two main reasons women of all ages cited for not reporting incidents are: "I didn't think the incident was serious enough to report" (55%) and "I didn't think reporting it would help" (45%). 44% of women agreed that having more confidence that reporting the incident would prevent it from happening again would encourage them to report.

@OurStreetsNow³⁴, a grassroots campaign that aims to end street harassment, reported in September 2020 that only 14% of school students had been taught about street harassment; that 47% of students said they would not report an incident of public sexual harassment to their school either because they did not know if it would lead to further abuse or feared not being taken seriously by staff; and that 72% of pupils who did report public sexual harassment described receiving a negative response from their school, with the majority of participants stating that no real action was taken.

The website Everyone's Invited has collected over 50,000 individual testimonies of rape culture in

UK schools (including in Scotland), defining rape culture as "when attitudes, behaviours and beliefs in society have the effect of normalising and trivialising sexual violence. This culture includes misogyny, rape jokes, sexual harassment, online sexual abuse (upskirting, non-consensual sharing of intimate photos, cyberflashing), and sexual coercion. When behaviours such as these are normalised this can act as a gateway to more extreme acts such as sexual assault and rape."³⁵

In March 2020, in a blog post reflecting on the World Wide Web's 31st birthday, Tim Berners-Lee referenced research by the World Wide Web Foundation (of which he is a Co Founder) and the World Association of Girl Guides and Girl Scouts which found over half of the young women surveyed have experienced violence on-line – including being sexually harassed, sent threatening messages or having their private images shared without consent. 84% thought that the problem was getting worse.

In its 2017 study Toxic Twitter, Amnesty commented:

"The particular danger of online abuse is how fast it can proliferate – one abusive tweet can become a barrage of targeted hate in a matter of minutes," and

"The internet can be a frightening and toxic place for women..."³⁶

This Amnesty study, conducted across eight countries (including the UK), reported on the psychological impact of online abuse:

³³ [APPG-UN-Women-Sexual-Harassment-Report_Updated.pdf \(unwomenuk.org\)](#)

³⁴ [Join the movement | OUR STREETS NOW](#)

³⁵ [Welcome - Everyone's Invited \(everyonesinvited.uk\)](#)

³⁶ [Amnesty reveals alarming impact of online abuse against women - Amnesty International](#)

- Across the eight countries, 61% who had experienced online abuse said they'd experienced lower self-esteem or loss of self-confidence as a result.
- More than half (55%) said they had experienced stress, anxiety or panic attacks after online abuse or harassment.
- 63% said they had not been able to sleep well as a result of online abuse or harassment.
- 56% said online abuse and harassment had means that they had been unable to concentrate for long periods of time.

Laura Bates, the Founder of the Everyday Sexism Project, stated

“The psychological impact of reading through someone’s really graphic thoughts about raping and murdering you is not necessarily acknowledged.”³⁷

The campaigning and training organisation Glitch reports in ‘The Ripple Effect’ that almost one in two women (46%) and non-binary people experienced online abuse since the beginning of the COVID-19 pandemic and 29% of those who had experienced online abuse before reported its being worse during the pandemic³⁸. Glitch’s report also highlights that gender is the most frequently cited reason for online abuse.

Further, a study from Amnesty International in 2018 found that in the UK and the US, Black women are 84%³⁹ more likely to experience online abuse than white women.

³⁷ Ibid

³⁸ [Glitch: The Ripple Effect Report COVID-19 Online Abuse \(glitchcharity.co.uk\)](https://glitchcharity.co.uk)

³⁹ [Twitter Abuse Toward Women Is Rampant, Amnesty Report Says | WIRED](#)

Research by the TUC has shown the harassment suffered by LGBTI+ women:

“For some women, the harassment tipped into sexual assault and threats of rape: ‘Colleagues would regularly slap me on the rear, make derogatory comments, and at one point I walked into a room in the middle of them discussing gang raping me.’”⁴⁰

Plan International UK’s Street Harassment: It’s Not UK report from 2018 stressed the impact of harassment of women and girls from minority ethnic as well as LGBTI+ communities, reporting that minority ethnic and LGBTI+ young women reported higher rates across all experiences of harassment. An example of the severity of this difference – while just over one third of 14 to 21 year olds reported having been followed, the figure rose to 43% of minority ethnic and 50% of LGBTI+ young women.

Her Majesty’s Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) reported in September 2021 on the police response to violent offences against women and girls. (Although the report is limited to England and Wales, its findings may be informative for policy development for Scotland). The Home Secretary Priti Patel commissioned the report in March 2021 as part of the response to the murder of Sarah Everard, although, as the report notes, the names of other women who have been murdered have reached public consciousness since then, including Bibaa Henry and Nicole Smallman, Gracie Spinks and Julia James. The report highlights that:

“over the past decade, an average of 80 women a year were killed by a partner or ex-partner, and

⁴⁰ [The Cost of Being Out at Work | TUC](#)

many of these women's names do not appear on the front pages of the newspapers. Statistics on the prevalence and scope of other VAWG offences are also shocking. For instance, in the year ending March 2020, it is estimated that 1.6 million women (and 757,000 men) in England and Wales experienced domestic abuse. In one recent survey, two out of three 16 to 34-year-old women and girls reported that they had been sexually harassed in the past year. These figures are alarming. We consider they represent an epidemic of violent and abusive offending against women and girls in England and Wales.

In fact, we struggled to keep our section in this report on the scale of the problem updated as a result of the pace of new data and findings on the size and shape of this epidemic. Every week brought new data or surveys on the crimes committed against women and girls; on the harassment they experience in public spaces, online, in their homes or schools, or where they work; on how unsafe they feel and the extra precautions they take as a result. The problem is known, consistent and deep-rooted in its presence, and growing in the forms it takes.”⁴¹

The point made by HMICFRS regarding the rapidly evolving data on the experiences of women and girls is well made. Even as this report is being prepared, young women in universities are protesting about their feelings of unsafety when participating in nightlife in their towns and cities.⁴²

The research undertaken for this Review (see ‘Lived

Experience Survey Analysis’, published separately) has not in any way suggested that the UK-wide data reported in the body of evidence cited above is different from the experience of women and girls in Scotland. Specifically, the Working Group’s research found, from 930 responses, that only 4.6% of respondents reported never having experienced misogynistic behaviours. Whilst the survey findings do not derive from a representative sample (with older women in particular over-represented) and cannot therefore be generalised to the Scottish population, the survey identified many relevant findings which echo those of the above cited evidence:

- The majority of misogynistic behaviours experienced took place on the streets (63.5%), followed by online (59.9%). The majority of misogynistic behaviours witnessed took place online (72.8%), followed by on the streets (71.4%).
- The most common misogynistic behaviours experienced or witnessed were: whistling; name calling; comments on physical appearance; dismissive or derogatory comments and behaviour; and shouting and cat-calling.
- Many experiences reported included more than one misogynistic behaviour in the same incident, and suggested an escalating pattern of abusive behaviour, where if participants did not respond positively or as expected to the first behaviour, escalated behaviours followed.
- Considerably fewer of the responses focused on misogyny in the home or within intimate relationships.
- Women with intersecting characteristics (young women, minority ethnic women, LGBTI+ women, disabled women) were more likely to experience misogyny and to experience it more frequently.

⁴¹ [Police response to violence against women and girls: Final inspection report - HMICFRS \(justiceinspectors.gov.uk\)](#)

⁴² [Why Women Are Calling For A Nightclub Boycott Across The UK | HuffPost UK Life \(huffingtonpost.co.uk\)](#)

On-line misogynistic behaviours were also investigated in the Lived Experiences Survey. Particularly marked are the threats to rape and / or kill and / or disfigure:

“On Twitter, I’ve been called an old witch, old hag and an old boomer. I’ve been told I’ll soon be dead recently by a young male. I’ve been told that I’m ugly and will be alone.”

“Online. Men threatening rape. Threatening physical violence against women who wouldn’t date them. Men threatening corrective rape to lesbians.”

“I have also experienced death/violence/rape threats online for speaking up publicly about this type of street harassment. One man tweeted that they would love to watch me getting my teeth kicked in, many others said I was too unattractive for my experiences to be true, they didn’t believe it had happened.”

4.2 The Rise of Incel

The phenomenon of ‘incel’ (‘involuntary celibate’) has come to public attention over recent years. Believed to derive from the Men’s Rights activism of the 1960s, generated in response to increased numbers of women in universities, and a relationship support forum started by a woman in Canada in the 1990s,⁴³ incel became widely known in 2014 when Elliot Rodger shot dead six students at the University of California Santa Barbara before taking his own life. In a suicide note, Rodger stated:

“I will punish all females for the crime of depriving me of sex. They have starved me of sex for my entire

youth, and gave that pleasure to other men. In doing so, they took many years of my life away.”⁴⁴

Since that time, Rodger has been ‘deified’⁴⁵ by sections of what has become known as the incel community, at times being referred to as ‘Saint Elliot,’ and referenced by Alek Minassian who, in a self-professedly incel act, killed 10 people in Toronto.⁴⁶ In the UK, in August 2021, Jake Davison killed five people in Plymouth before taking his own life. He is reported to have shared hate-filled views on Reddit forums used by incels.⁴⁷

Dr Kaitlyn Regehr, who studies alt-right and incel communities at the University of Kent has described incel logic as:

- “Calling upon ‘lookism’ [the idea that discriminatory treatment is received by those considered physically unattractive].
- Uses evolutionary biology and traditional reproductive roles.
- Employs ‘geek masculinity’.⁴⁸
- Claims that society lies: “men actually have it harder than women”.⁴⁹

The Centre for Countering Digital Hate has identified one YouTube channel promoting violently misogynistic incel ideology that has had over 4 million views and counted the Plymouth murdered Jake Davison amongst its subscribers.⁵⁰ In January 2021,

⁴⁴ [Isla Vista shooting: Read Elliot Rodger’s graphic, elaborate attack plan - Los Angeles Times \(latimes.com\)](#)

⁴⁵ [Understanding Incel Ideology: Dr Kaitlyn Regehr](#)

⁴⁶ [Incels: A new terror threat to the UK? - BBC News](#)

⁴⁷ [Plymouth gunman: a hate-filled misogynist and ‘incel’ | Plymouth shooting | The Guardian](#)

⁴⁸ Race and Gender in Electronic Media, Massanari Routledge 2016

⁴⁹ [Understanding Incel Ideology: Dr Kaitlyn Regehr](#)

⁵⁰ [YouTube channel ‘spreads incel hate’ | News | The Times](#)

⁴³ [Understanding Incel Ideology: Dr Kaitlyn Regehr](#)

the Independent reported:

“There has been a six-fold rise in UK web traffic to websites promoting ‘incel’ culture, new analysis has found.

The Centre for Countering Digital Hate found that UK web traffic data to three of the largest ‘incel’ sites has grown from 114,420 monthly visits to 638,505, over the period of March to November 2021.

The Times reported that users on the sites referred to Plymouth mass shooter Jake Davison as a hero and called for ‘all women to be raped at least once.’⁵¹

Incel represents an extreme – and apparently rapidly growing – example of the entitlement that the Working Group’s definition of misogyny captures. The term ‘femoid’ (or ‘foid’) is frequently used in incel exchanges, referring to a ‘female humanoid’ or ‘female android’.⁵² The femoid is described as ‘it’ rather than ‘she,’ a woman in this language is dehumanised, an object, other.

4.3 What Other Behaviour May be Motivated by, or May Demonstrate Misogyny?

Thus far this report has discussed behaviour that falls firmly within a violence against women and girls framework. It has discussed extremities – what may appear to be trivial behaviour such as the shouting of gendered and sexualised insults – through to what would generally be recognised as serious crime such as domestic abuse and rape.

⁵¹[Six-fold increase to incel websites in nine months | The Independent](#)

⁵²[Understanding Incel Ideology: Dr Kaitlyn Regehr](#)

There are other examples of misogynistic behaviour that the Working Group considered:

- A brick thrown through the window of a well-known feminist.
- Objects thrown at a group entering a women’s meeting.
- Vandalising the car of a woman who has started to campaign on a woman’s issue.

Whilst there are recognisable crimes (criminal damage, assault) in these examples, it is also clear that there is a misogynistic element. In line with the Working Group’s definition, the behaviour involved in the crime demonstrates a sense of entitlement, a subordination of women and, as a consequence, a limiting of their power and freedom.

4.4 Impact on Women and Girls

The experiences and incidents described above make it clear that misogyny is a fact of women’s and girl’s lives. This section describes the impact it has on their feelings, attitudes and decisions.

4.4a Insights from the Working Group’s Lived Experiences Survey Analysis:

- Only 0.7% of survey respondents reported that the experience [of misogynistic behaviour] did not impact them; 75% said that they felt angry, 69.2% felt annoyed or irritated, 67.1% felt uncomfortable.
- Impacts appear to vary with age: The most common impact on respondents’ feelings reported amongst 18 - 34 year olds was to feel uncomfortable. Over three quarters (77.6%) of 18 - 34 year olds reported feeling this way, compared to just under two thirds

(68.0%) of 35 - 59 year olds, and just over half (53.1%) of respondents age 60+. The next most common response reported by 18 - 34 year olds was to feel annoyed / irritated (76.9%) compared to 69% of 35 - 59 year olds and 63.6% of those age 60+. Younger respondents were also more likely to feel undermined (65.0% compared to 57.3% of 35 - 59 year olds and 44.8% of 60+), to feel violated or that their privacy had been invaded (62.2% compared to 51.3% of 35 - 59 year olds and 37% of respondents age 60+), and to feel embarrassed (53.1% compared to 44.2% of 35 - 59 year olds and 35.7% of those age 60 +). By comparison, the most common response reported by respondents aged 35 - 59 was to feel angry (75.2%) which were similar for 18 - 34 year olds (74.8%) and those age 60+ (74.8%).⁵³

4.4b Safety Work

“Safety work’ is the term Liz Kelly uses to describe the strategising and planning that women and girls undertake in responding to, avoiding and/or coping with men’s violence. The vast majority of this work is pre-emptive: we often can’t even know if what we are experiencing as intrusive is intrusive without external confirmation. That confirmation generally comes in the form of escalation: he moves from staring to touching, he walks quicker behind you, he blocks your path. This escalation is what safety work is designed to disrupt. Women learn to quietly make changes, continually evaluating the situation to decide what constitutes ‘the right amount of panic’. Such work, repeated over time, becomes habitual: it is absorbed into the body as a kind of hidden labour.”⁵⁴

⁵³ It should be noted that these findings have not been tested for statistical significance.

⁵⁴ [Situating agency – Trouble and Strife](#)

The prevalence of women undertaking ‘safety work’ is clear from the Lived Experience Survey. Many respondents reported changing their behaviour as a result of a misogynistic incident(s). 42.7% of respondents became more vigilant, 33.4% became more suspicious of strangers and 30% rethought decisions (e.g. clothing choices or posting on-line). Safety work has also gained greater public attention in the wake of Sarah Everard’s murder when the Women’s Equality Party invited women to tweet the precautions they take going about their lives. The Evening Standard reported that:

“within 45 minutes more than 18,000 examples had been shared. In one tweet a woman described how she removed strands of hair from her head during taxi rides in case she never made it home.”⁵⁵

4.4c Participation

It is clear from the body of evidence that misogyny operates at epidemic levels, not just in Scotland but across the UK. From the evidence – and from natural inference – the impact of this epidemic on women and girls’ participation in society is clear.

- Why put your hand up in school if it draws attention to you and puts you at greater risk of misogynistic bullying, harassment or derision?
- Why put yourself forward for a promotion or a pay-rise if it increases your visibility and therefore your risk of misogynistic treatment?
- Why speak up, or out, offline or on, if the result may be anything from degrading remarks about your physical appearance or desirability to a rape threat, or death threat?

⁵⁵ [Women’s Equality Party: Violence against women must be seen as national threat, like terrorism - Mandu Reid | Evening Standard](#)

- How to firmly reject unwanted advances, of any kind, if there is a risk of nastiness, escalation of threat, or the occurrence of actual violence?

Misogynistic online abuse has, chillingly, been cited as the reason for women withdrawing from public life.^{56 57} Of course, there are women who live full lives regardless of this epidemic, but it is nevertheless clear that a misogynistic act, whether ‘trivial’ or serious, undermines not only the victim of that act, but the progress, confidence and feeling of belonging to society of the vast majority of women.

4.4d. Reporting of, and Perception of Handling of, Misogynistic Incidents

The evidence presented in Section 4.1 makes it clear that reporting of misogynistic behaviour is unusual. Specifically, the Lived Experience Survey Analysis showed:

Reporting an Incident

- Most (93.4%) survey respondents did not report the incident(s) to the police, and 71.9% did not report to another person or agency in a position of authority. The main reason (52.2%) for not reporting was believing the police or authority would not be bothered/ interested, followed by believing the experience was not criminal, too trivial or not worth reporting (38.2%).
- Of those who did report, 61.2% reported that the police, person or agency did not take action, a quarter (25.3%) reported they did take action, and 12.6% reported not knowing if any action was

taken. Most (61.1%) respondents reported being dissatisfied with the response of the police and/or authority, and the minority (4.7%) reported that they were satisfied.

- Minority ethnic respondents who had experienced misogyny were twice as likely than white respondents to say that they reported the incident to the police (12% versus 6%) or to another person or agency in a position of authority (34.4% versus 27.4%).

Satisfaction with How Incidents Were Dealt With

- Minority ethnic respondents who said they did report were less likely than white respondents who reported to state that the police/authority took action (15% versus 25.7%).
- Heterosexual/straight respondents (26%) were more likely to report that the police and/or authority took action in relation to their misogynistic experience than gay/lesbian respondents (22.2%) and bisexual respondents (18.8%).⁵⁸
- Disabled respondents were less likely than non-disabled respondents to report that the police and/or authority took action. 17.6% of disabled respondents who reported the incident stated that action was taken, compared to just over a quarter (28.9%) of non-disabled respondents who reported the incident to the police and/or another authority.
- Younger respondents aged 18 - 34 were more likely than 35 – 59 year old’s and those aged 60+ to report being satisfied or very satisfied with the

⁵⁶ [Want Women To Stay In Politics? Remove The Vote From Trolls | HuffPost UK Politics \(huffingtonpost.co.uk\)](https://www.huffpost.com/entry/women-politics-trolls)

⁵⁷ [Harassment and Intimidation of Parliamentary Candidates in the United Kingdom - Collignon - 2020 - The Political Quarterly - Wiley Online Library](https://www.wiley.com/doi/10.1080/17445019.2020.1811111)

⁵⁸ It should be noted that sample sizes for this question were small and this affects the validity of these findings. There were 230 white respondents but only 20 minority ethnic respondents to this question. There were 192 heterosexual/straight respondents to this question, but only 18 gay/lesbian and 32 bisexual respondents.

response of the police and/or authority. Just over a quarter (25.9%) of those 18 – 34 who reported the incident of misogyny were satisfied or very satisfied with the response, compared to 1 in 10 (10.4%) of 35 – 59 year olds, and 17.6% of respondents aged 60+. ⁵⁹

- Those minority ethnic respondents who reported the incident of misogyny to the police or another authority were more likely than white respondents to report that they were dissatisfied or very dissatisfied with the action taken (100% of minority ethnic respondents who reported compared to 77% of white respondents who reported). ⁶⁰

Reasons for Not Reporting

- Younger respondents aged 18 – 34 were more likely than older respondents to report that their reason for not reporting the incident was because they thought it was not criminal/too trivial/not worth reporting (50%), compared to 36.9% of 35 – 59 year olds and 31.2% of those aged 60+. Younger respondents aged 18 – 34 were also more likely than respondents aged 35 – 59 year olds and 60+ to say they didn't report because the police or authority could have done nothing (46.8% of 18 – 34 year olds, 31.1% of 35 – 59 year olds and 35% of respondents aged 60+), and to say that they didn't report due to a fear of being or not being believed (37.3% of 18 – 34 year olds, 30% of 35 – 59 year olds and 25.6% of respondents aged 60+).
- The most common reason for not reporting among minority ethnic respondents was that the police or

authority would not have been bothered/not been interested (68.8% of minority ethnic respondents compared to 50.9% of white respondents). This was also the most common reason for not reporting amongst gay/lesbian (68.3%) and bisexual respondents (56.1%), compared to just under half (49.4%) of heterosexual/straight respondents.

4.5 What about Men and 'Misandry'?

By necessity, within the remit of this Review, the evidence in this report refers to the experiences of women. 'Misandry' has not featured. A parallel between misogyny and 'misandry' ('feelings of hating men' ⁶¹) is immediately problematic when considered within the Working Group's definition of misogyny. Of course, there are instances of men being abused or harassed, but it is difficult to reverse the logic of the misogyny definition and to interpret abuse or harassment of men as upholding the primary status of women, a sense of female entitlement and the subordination of men. It is equally difficult to see the harms of misogyny – the increased feelings of fear and threat, the need to undertake safety work within women as a group – as being similar to the harms deriving from instances of abuse or harassment of men.

Further insights on the prevalence of misogyny, on technology platforms, in education, public life and at work can be found in Annex 2.

⁵⁹ The reduced sample size for this question impacts the validity of these findings. There were 31 respondents to this question aged 18 – 34, 164 aged 35 – 59 and 34 aged 60+.

⁶⁰ As above the small sample size impacts the validity of these findings. There were 209 minority ethnic respondents to this question, but only 17 minority ethnic respondents.

⁶¹ [Cambridge Dictionary](#): Misandry, noun, feelings of hating men

Section 5:

Attitudes to Misogynistic Behaviour

5.1 Overview of Public Attitudes

As Lord Bracadale commented in his Independent Review of Hate Crime Legislation

“[there is] a significant cultural shift in the sense that women are not now prepared to tolerate sexual harassment that might have been put up with in the past.”⁶²

This assertion is certainly borne out by the evidence considered by the Working Group:

- The Scottish Social Attitudes Survey 2019⁶³ asked participants how wrong they considered three forms of sexual harassment to be: wolf-whistling by a group of strangers, sexual harassment in the workplace, and stalking by an ex-boyfriend. Sexual harassment in the workplace was the most likely to be considered ‘very seriously wrong’ (45%), while the equivalent figures for a group of men wolf-whistling and a man sending unwanted gifts to his ex-girlfriend were 39% and 30% respectively. The proportion considering the behaviour of the group of men wolf-whistling to be ‘very seriously wrong’ increased by 14

percentage points from 25% in 2014 to 39% in 2019, and the proportion thinking the behaviour of the ex-boyfriend sending unwanted gifts was ‘very seriously wrong’ increased by 11 percentage points from 19% to 30% over the same period.

- An overwhelming majority (94%) of people considered the behaviour of a man who put naked pictures of his ex-girlfriend on the internet to be ‘very seriously wrong’ in 2019. This compared with 88% in 2014. There was also an increase of five percentage points between 2014 and 2019 in the proportion who thought the man’s actions in this scenario did ‘a great deal’ of harm to the woman (from 87% to 92%).
- A man telling a sexist joke was considered to be less serious than the examples of sexual harassment which were asked about in 2019. Only a quarter (25%) of people considered this to be ‘very seriously wrong’, though almost two-fifths (38%) said they would tell their friend it was wrong to make the sexist joke.

It is notable from this data on social attitudes that trends seem to be moving towards a lessening of acceptance of behaviour that would fit within the Working Group’s definition of misogyny. Whilst it would be wrong to try and accurately project forwards from this data, it is hoped that this trajectory will continue, given the increasing

⁶² [Independent Review of Hate Crime Legislation in Scotland, 4.12, pp34](#)

⁶³ [Scottish Social Attitudes 2019: attitudes to government and political engagement - gov.scot \(www.gov.scot\)](#)

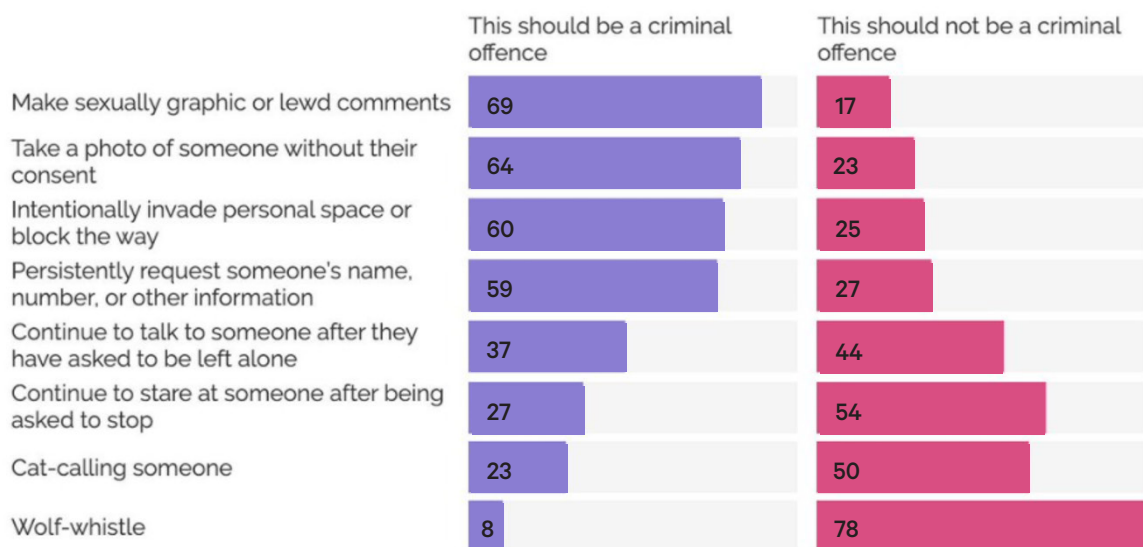
profile of the activism and voice of women and the willingness of key actors (such as Police Scotland and its That Guy campaign) to get involved in campaigning for greater freedom and safety for women. It is also notable that men’s attitudes are changing, as well as women’s. Lord Bracadale’s comment on the significant cultural shift that is taking place in terms of tolerance of sexual harassment could, with validity, reference men as well as women.

This said, there is clearly no room for complacency, or to think that reported shifting social attitudes are guarantees of progress. Ample evidence⁶⁴ shows that women’s rights are currently experiencing significant backlash and must be considered as being constantly under threat.

In October 2021, a YouGov poll⁶⁵ revealed public sentiment on the types of street harassment that should be criminalised (see Figure One).

Which forms of street harassment should be criminal offences?

There are currently discussions looking into making some types of public or street harassment a specific crime. Thinking about if someone did each of the following to a woman, do you think this should or should not be considered a criminal offence?



YouGov

29 July - 3 August 2021

⁶⁴ [50% of Young Men in the UK Believe Feminism Has ‘Gone Too Far’: Report \(globalcitizen.org\)](#); [The personal is global political: The antifeminist backlash in the United Nations - Jelena Cupać, Irem Ebetürk, 2020 \(sagepub.com\)](#)

⁶⁵ [Should wolf-whistling and cat-calling be classed as crimes? | YouGov](#)

The YouGov data also revealed:

“Women are almost universally more likely to be in favour of criminalising forms of sexual harassment. At the top end of the scale, this includes 76% of women who think making sexually graphic or lewd comments should be criminalised versus 62% of men. Another 72% want taking photos of people without consent to be an offence, compared to just over half of men (55%) – a 17pt gap. Some 66% of women think intentionally invading personal space is worthy of being criminalised as well, compared to 53% of men. This sentiment is most pronounced among young women, who in nearly all cases tend to be more in favour of criminalising acts of harassment than both older women and men of all ages. Differences between the genders tend to diminish with age, however, with older men and women being of similar minds when it comes to most of these forms of harassment.”

The YouGov survey reinforces the trajectory of social attitudes described above and creates a warning to all four nations’ governments not to fall too far behind in terms of their attitudes, policies and investment.

5.2 How to Tackle Misogynistic Behaviour: Attitudes Revealed by the Lived Experiences Survey

A summary of opinion from the Lived Experiences Survey as to how misogynistic behaviour should be tackled in Scotland is below; further detail can be found in the Lived Experiences Survey Analysis (published separately):

- The option of a misogyny offence was viewed by the most respondents to be ‘very effective’ at

addressing misogynistic conduct (42.3%) when compared to other options including police fines and public awareness raising. However, when the ‘very effective’ and ‘effective’ categories are combined education interventions were viewed most favourably, with over 3 in 4 (76.8%) respondents viewing education interventions as effective or very effective.

- From qualitative responses, education interventions were most commonly cited as the most effective strategy to address misogynistic conduct by respondents. Education interventions were followed by ‘multiple interventions’ and public awareness raising.
- Educating on what is not acceptable behaviour, and on what misogyny is, were the most commonly cited education strategies. The need to communicate what misogyny is was also the strongest theme for public awareness raising.
- Younger people aged 18 - 34 were more likely than respondents aged 35 - 59 and 60+ to view education interventions as very effective or effective at tackling misogyny (83.2% for respondents aged 18 - 34, compared to 76.7% of respondents aged 35 - 59 and 71.4% of respondents aged 60+). Older respondents (those aged 60+) were more likely than younger respondents (aged 18 - 34) to view all interventions as ineffective or very ineffective.
- Minority ethnic respondents were more likely than white respondents to view education interventions as very ineffective or ineffective at tackling misogyny than white respondents (16.9% of minority ethnic respondents compared to 9.2% of white respondents).

- Minority ethnic respondents were also more likely than white respondents to view police powers for on-the-spot fines as effective or very effective (62.1% of minority ethnic respondents compared to 53.9% of white respondents), and also more likely to view the creation of a new criminal offence for all types of misogynistic behaviour as effective or very effective (72.2% of minority ethnic respondents compared to 62.9% of white respondents).
- Education interventions were the intervention most likely to be viewed as very effective or effective amongst gay/lesbian and heterosexual/straight respondents (81.3% of gay/lesbian respondents compared to 79.5% of bisexual respondents and 76.4% of heterosexual/straight respondents).

5.3 Men's Views of Misogyny

Professor John Devaney, Centenary Chair of Social Work, University of Edinburgh and Working Group member provided the following comment:

“Recent murders of women in the UK have focused attention on the need for men to take greater personal responsibility for their own behaviour and in challenging the behaviour and attitudes of other men that create and sustain misogyny, and wider gender inequality. In a recent survey,⁶⁶ 70% of men believe there should be more women in positions of political power, and 60% of men support having more women leaders in their workplace. Two-thirds of men agreed that women continue to face “major barriers” in their

chosen professions. At home, 88% of the same men affirmed they were doing everything they could to support their partner’s career. However, when it came to individual action and how far men are willing to go to advance gender equality, women reported that men overstated their efforts to be allies and lacked an understanding of the issues women face. While 77% of men reported doing “everything they can” to support gender equality at work, only 41% of women agreed that this was occurring.

While there have been longstanding and well-respected campaigns and initiatives to address misogyny, and in particular violence by men against women and children, such as White Ribbon, there remains a concern that this, to date, has had limited impact on wider societal attitudes and actual rates of gender based violence. In the online space there has been a growth of two diametrically opposed sets of groups. On one side misogynistic men’s groups have been rapidly growing and have contributed to a number of fatal attacks along with the propagation of gendered online harassment and hate. On the other side are groups designed to provide a space for men to explore their own masculinity and to exchange ideas about how to ally with women in tackling patriarchy, sexism and misogyny. Men’s connections to patriarchy can mean that they are well placed to help undermine it from within. A common feature of both types of group appears to be that members are younger and often from similar socio-demographic groups.

As has been noted in recent academic work,⁶⁷ some groups of men have much more power, influence and privilege than others. Men in

⁶⁶ [So, You Want To Be A Male Ally For Gender Equality? \(And You Should\): Results from a National Survey, and a Few Things You Should Know | Promundo \(promundoglobal.org\)](#)

⁶⁷ Men’s Activism to End Violence Against Women Voices from Spain, Sweden and the UK, Policy Press July 2021

leadership positions, and in influential institutions such as politics, business, media and the criminal justice system have a particular responsibility to speak out and work to build gender equality and inclusiveness in their own organisations and wider communities. This is less than straightforward though. As Burrell's (2020) work⁶⁸ highlights, the efforts to reduce and prevent violence against women and girls can both challenge existing patriarchal structures and masculine norms while also reproducing male dominance within the same movement. Burrell argues for the need for men to avoid disassociation – whereby male allies construct themselves as being separate from patriarchal inequalities, and therefore avoid acknowledging or confronting the ways in which they are implicated in their maintenance.”

5.4 Misogyny and Police Scotland

Police Scotland's strategic aims are described below:

“Our Purpose: To improve the safety and wellbeing of people, places and communities in Scotland
Our Focus: Keeping People Safe
Our Values: Integrity, Fairness and Respect”

Various points of concern in respect of the execution of this purpose and focus were raised to, or by, the Working Group:

- Channel Four's dispatches programme (11 October 2021) revealed that in the past four years Police Scotland had 166 police officers and special constables accused of 245 counts of sexual

misconduct and that no officers were dismissed as a result.

- A Police Scotland officer who “hounded vulnerable women with sex texts and naked selfies after investigating cases” was jailed in December 2021. The Police Constable was sentenced to 14 months in prison for harassing three women.⁶⁹
- On 6 October 2021, the BBC reported:

“The culture in an armed policing unit within Police Scotland was ‘horrific’ and an ‘absolute boys’ club,’ an employment tribunal has found. It accepted evidence of a ‘sexist culture’ in the armed response vehicles unit (ARV) in the east of Scotland. Former firearms officer Rhona Malone raised the tribunal against the force alleging sex discrimination and victimisation. Her victimisation claims succeeded but the discrimination claim was dismissed. It also found that Ms Malone was an ‘entirely credible and reliable witness’, but the evidence of her former superior, Insp Keith Warhurst, was ‘contradictory, confusing and ultimately incredible’. Insp Warhurst sent an email in January 2018 saying two female firearms officers should not be deployed together when there were sufficient male staff on duty. Police Scotland apologised unreservedly to Ms Malone and said it would address the issues raised in the judgement ‘as a matter of urgency.’”

- In its submission to the Working Group, it was surprising that in response to the question ‘Do you know of any Scottish laws that currently

⁶⁸ Male Agents of Change and Disassociating from the Problem in the Prevention of Violence against Women Stephen R. Burrell, Springer, March 2020

⁶⁹ [Perv Scots cop jailed for hounding crime victims with sex texts and selfies - Daily Record](#)

address misogynistic behaviours?’ Police Scotland mentioned a number of offences, such as Prohibition of Female Genital Mutilation (Scotland) Act 2005, the Sexual Offences (Scotland) Act 2009 but did not explicitly mention s38 of the Criminal Justice and Licensing Act 2010 or Breach of the Peace. (The submission did refer to s39 Criminal Justice and Licensing Act in the context of stalking). This may have been an oversight, but equally could reveal a blindspot in terms of the availability of these laws in the context of misogynistic behaviours, reinforcing the need for law that specifically names misogyny and educates accordingly.

The Group was ever mindful that Sarah Everard was murdered by a serving police officer. Increasing the number of tools available for the criminal justice system will not, alone, be a solution to misogyny.

- Public trust in, and perceptions of, policing are likely to be negatively impacted by recent high profile news stories emerging outside Scotland. The Independent Office for Police Conduct announced on 1 February 2022 wide ranging recommendations “made to the Metropolitan Police Service (MPS) to change policing practice after nine linked investigations found evidence of bullying and discrimination within the ranks. Other inappropriate behaviour by officers, including, racism, misogyny, harassment and the exchange of offensive social media messages, is also highlighted in a learning report we are now publishing from our Operation Hotton investigations.”⁷⁰

Examples of some of the messages shared between Met officers through on-line platforms included:

“I would happily rape you ... if I was single ... if I was single I would happily chloroform you.”
“Getting a woman into bed is like spreading butter. It can be done with a bit of effort using a credit card, but it’s quicker and easier just to use a knife.”⁷¹

- The Working Group recognised the inherent tension in recommending more law, and therefore more policing and greater role for criminal justice, whilst at the same time acknowledging significant flaws in these institutions. The Group was ever mindful that Sarah Everard was murdered by a serving police officer. Increasing the number of tools available for the criminal justice system will not, alone, be a solution to misogyny.

⁷⁰ [IOPC recommendations to tackle Met culture after investigation uncovers bullying and harassment in the ranks | Independent Office for Police Conduct](#)

⁷¹ [Met officers joked about raping women, police watchdog reveals | Metropolitan police | The Guardian](#)

Section 6: Learning from Other Jurisdictions

The Working Group looked to other jurisdictions, including the US, Canada, France, Australia, the Netherlands as well as at work in Nottinghamshire, England to learn from initiatives to address misogynistic behaviour. See Annex 3 for details, the summary of findings is that across these contexts:

- The law alone cannot address misogyny. Education, communication and training are critical.
- Implementation measures (for new law) need to be properly resourced and sustained. (The Working Group understands that there is a strong precedent for effective implementation in the approach taken with the Domestic Abuse (Scotland) Act 2018, termed the world's new gold standard for domestic abuse legislation.)⁷²
- More targeted measures appear to be more effective than those that rely on boosting use of existing laws.
- Expecting victims to change their behaviour and report incidents is likely to be ineffective without holistic approaches, including education and skill building throughout the criminal justice system and key institutions.

- Arguably, France has had the most success in terms of enforcement of street harassment laws. The French Street Harassment Law (2018) includes penalties of on the spot fines for perpetrators. To date, over 2,000 fines have been issued for instances of behaviour constituting misogynistic conduct on the streets. This high enforcement is likely because the implementation involved: awareness raising, the simultaneous introduction of other laws and initiatives, and the appointment of supporters of the law to key government positions. Recently, the French Government has indicated its support for strengthening these measures.⁷³

⁷² [Scotland set to pass 'gold standard' domestic abuse law | Domestic violence | The Guardian](#)

⁷³ [France to fast-track court cases taken for street harassment of women \(rfi.fr\)](#)



Section 7: Conclusions from the Evidence

7.1 Sex, Power, Rejection, Escalation, Shame and Blame

In addition to the clear evidence that misogyny is a routine blight on women's lives, there are three themes that are notable from the evidence:

7.1a Sex and Power:

It is notable, and may not be in any way surprising, that much – although not all – of the language of misogyny is the language of sexual violence. When asked in the Working Group's survey about the behaviours that women perceived as misogynistic, women did not provide examples of men saying "You fucking woman, I hate you and your kind" or "you women are destroying our country...". They provided instead examples of what men had said they wanted to do to them [sexual acts] or what they deserved... [to be raped / punished / kept at home / kept quiet or in an inferior position, e.g. in the workplace]. The behaviour suggests a dehumanisation or degradation of all women and their role in society, and it illustrates the sense of entitlement and upholding of power that the Working Group's definition of misogyny seeks to capture. It is not about excluding women, it is about their inclusion, on patriarchal terms.

7.1b Rejection and Escalation:

In its definition of misogyny the Working Group refers to 'a sense of male entitlement'. This sense

of entitlement speaks not just to goods, property and sex, but to attention, to care and even to love. A common feature of the evidence of misogynistic behaviour submitted to the Working Group is the escalation in the degree of ugliness of the ensuing behaviour if this entitlement is challenged; if the attention, care, the expected service of whatever form, is denied. A 'compliment' rejected becomes an aggressive remark, which if ignored becomes a threat, which if ignored becomes following the victim home or into a shop, an invasion of space, or even physical violence. This escalation is all too familiar to women and puts a different context around the experience of 'one off' incidents.

An insult to a girl walking home from school, "you ugly bitch," is not a trivial, one off to her. It is experienced in a context in which she does not feel safe or secure and in which she is likely to be all too aware of the potential for escalation if male entitlement – to attention, a response, a reaction – is denied. High profile 'incel' crimes have brought this context to life for women everywhere.

This escalation of ugliness need not be limited to a single episode. During the recent trial of Sarah Everard's murderer, it came to light that that he was believed to have been involved in misogynistic discussions with colleagues via a digital platform and to have been linked to two allegations of indecent

exposure.⁷⁴ The murder of Sarah Everard could be seen as a tragic, dreadful example of the process of escalation described above.

7.1c Shame and Blame:

It is notable that women often feel the need to explain their harmlessness or blamelessness when they are the victims of misogynistic behaviour. 'I accidentally moved my trolley [near a man's car]' 'we didn't have the option to wear trousers' 'I politely told the man [who was chatting me up] I was married.' What comes through is an assumption that men have the primary entitlement to feel comfortable, confident and must not be shamed nor blamed. It seems women take it upon themselves not to trigger misogynistic outbursts, another example of the Safety Work described in section 4.1.

7.2 The Spectrum of Behaviours Covered by the Working Definition of Misogyny

The Working Group's working definition of misogyny

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.

covers behaviours revealed by the evidence (see Section 4) that include, but are not limited to:

- Pervasive abuse and harassment, offline and online, often of a gendered and sexualised nature.
- Issuing threats of harm – often on-line – or invoking harms (specifically rape, sexual assault, disfigurement) to cause fear, distress, humiliation or degradation. The Working Group noted the prevalence of the use of the language of male violence as a means to make women feel degraded, subordinated or to silence them.
- A rapidly growing global 'incel' culture that advocates misogynistic thinking and action, including promoting rape and sexual assault.
- 'Normal' criminal behaviour (such as criminal damage, assault) that is more damaging to the victim, and to women as a group, because of a misogynistic tone or intention, demonstrating prejudice, malice or contempt towards women as a group.

in addition to the domestic abuse and sexual violence specifically mentioned in the definition.

Notably, each one of these behaviours is very specifically gendered. It happens to women because they are women. This point is brought into stark relief when considering threats to rape and disfigure. Rape has been used, and is still used, to devalue women and girls as property, making them less attractive to future prospects. The threat of acid throwing, or disfigurement, follows a similar logic. By disfiguring a woman, who is, in this logic, objectified and thus valued for her appearance, she is less likely or able to participate in social and economic life, less likely to exercise her voice, less likely to achieve. It is difficult to imagine a similar ingrained logic being applied to the threat to disfigure men.

⁷⁴ [Sarah Everard: Gross misconduct probe into Couzens WhatsApp group - BBC News](#)

7.3 Additional Themes

- There is a clear lack of reporting. This issue cannot be a problem laid at the door of women, particularly in the light of the evidence outlined in Section 5.4 relating to confidence levels in the police and other authorities. The Working Group is aware that many Police Scotland staff are wholly committed to the aims of Equally Safe and to Police Scotland's own purpose and values. However, it appears that there is a long way to go for women to feel that their safety and freedoms – and the end of misogyny in Scotland – is an adequately resourced priority of the Force.
- The evidence suggests that there would be public support for a range of interventions to address misogyny (as defined above), including public awareness raising, education and prevention alongside well as criminal sanctions. Education and public awareness raising on what misogyny is, and the damage it causes, is critical. One could also infer from the evidence that there is public understanding that there has to be a 'reasonable' threshold for criminalisation. It could also be inferred that public understanding is nuanced, and that the support for multiple interventions (see Section 5.2) suggests that the public realises that there is no 'silver bullet' or simple answer to addressing misogyny.

**There is a clear lack of reporting.
This issue cannot be a problem laid
at the door of women.**

7.4 Conclusions from the Evidence on the Experience of Misogyny in Scotland

In addition to validating and reinforcing the findings from existing evidence across the UK, the Working Group's survey and oral and written evidence provided to the Working Group underlined that:

- Being on the receiving end of misogynistic behaviour is the routine experience of women and girls in Scotland. LGBTI+ and minority ethnic women and girls' experiences tend to be even worse than those of their straight, white counterparts.
- The experience of these behaviours has a corrosive effect on women – on their spirits, their senses of belonging and belief in their rights to occupy spaces. These experiences make women angry and uncomfortable and they make women dwell on their own instincts and choices – to second guess their outfits, their routes home, their modes of transport, their educational and career aspirations and their participation in public life. Furthermore, these experiences and effects are not limited to adult women. It is abundantly clear from the evidence presented to the Working Group that being subject to misogynistic attitudes and behaviour is the routine experience of girls – in schools, on public transport and even within the educational community charged with their care and progress.
- As a result, women change their behaviours, goals and become at greater risk of poverty, ill health or isolation and exclusion and have lesser access to political power.

- Women do not appear to believe that the ‘powers that be’ are invested in reducing or eliminating this discomfort, fear and anger. Women are not sure what is and is not illegal – and therefore are unsure about what is condoned or condemned by society – a grope on the bus, a catcall, a pull on the bra-strap at school, an on-line rape threat? – and the women surveyed appear to have almost no confidence that the police or agencies in authority would take seriously any experiences that, in their accumulation and omnipresence, are so corrosive to their quality of life.
- As one woman witness to the Panel commented “it’s as though all your experiences are invalidated, you are not enough – you’re too young or too old – or too bossy or too passive. And you’re not believed when you point out that you’ve been undermined or humiliated or made to feel afraid...”
- All of the experiences of misogyny are unique to women. They happen to women because they are women.

The corollary of this evidence is, in the words of a Working Group witness, “enough is enough; something must be done.”

This ‘something’ needs to be, in fact, many things. As the evidence shows, misogynistic behaviour is an ugly problem. And “ugly problems do not always have pretty solutions.”⁷⁵ There is a role for the law – to make it absolutely clear what society does and does not accept; a role for law enforcement – to ensure accountability and (possibly) act as a deterrent; a

role for training across the criminal justice system; and, a role for campaigning and education, that helps men and boys understand the difference between harassment of a stranger and a kind compliment to a friend or lover and that teaches them to stand up for what is right in public spaces – and that helps women know their rights, exercise their rights and encourage others to do the same.

“ugly problems do not always have pretty solutions.”

In the next section, this report discusses existing law and the degree to which it protects women from the misogynistic behaviour that falls within the Working Group’s working definition.

⁷⁵ [“Yes Means Yes” is a terrible law, and I completely support it - Vox](#)

Section 8:

Misogyny and Criminal Law

8.1 Current Law

Before considering whether there are areas where existing law is not working for women, the Working Group defined the criteria against which the effectiveness of law could be determined:

- **Clarity on what society accepts:** The law plays the vital role of creating clarity about what society is, and is not, prepared to accept. The law must not lag too far behind public concerns, nor be seen to be dismissing the value of these public concerns.
- **Comprehensibility:** The law needs to be clear so that victims know when to report their experiences and so everyone has a fair chance to avoid breaking the law. Comprehensible laws also facilitate education and training within the police force, the wider criminal justice system and beyond.
- **Justifiability:** criminal law must be justifiable in the sense that it must constitute a proportionate response to an identifiable wrong and / or harm.
- **Meaningful data:** Application of the law needs to provide meaningful data and thus insight on the behaviour that the law is seeking to address – ensuring a continuing mandate to invest in ongoing programmes (education, campaigning, policy development) that promote change.

Although there is no specific criminal offence of ‘misogynistic conduct’ or ‘misogynistic harassment’ in Scots law, there are a number of relevant offences that could, depending on the facts and circumstances of the particular case, be used to prosecute conduct towards women which may arise as a consequence of misogyny. The main examples are set out below:

1. ‘Threatening or abusive behaviour’ – section 38, Criminal Justice and Licensing (Scotland) Act 2010.
 - a. This provides that it is a criminal offence to behave in a threatening or abusive manner that would be likely to cause a reasonable person to suffer fear or alarm. The offence is committed if the accused either intends that their behaviour cause fear or alarm, or else is reckless as to whether the behaviour would cause fear or alarm.
 - b. The offence covers behaviour of any kind, including, in particular, things said or otherwise communicated as well as things done.
2. ‘Stalking’ – section 39, Criminal Justice and Licensing (Scotland) Act 2010.
 - a. This provides that it is a criminal offence for a person to ‘stalk’ another person. Stalking is defined as engaging in a course of conduct that causes the victim to suffer fear or alarm, where the accused either intends to cause such fear or alarm, or else knew or ought to have known that engaging in that course of conduct would be likely

- to cause the victim to suffer fear or alarm.
- b. It differs from section 38 both in that it requires a course of conduct (a single instance of behaviour cannot be prosecuted as 'stalking') and it requires that the victim suffer actual fear or alarm as a result of the accused's conduct, rather than requiring the accused's conduct to be likely to cause fear or alarm to a reasonable person.
 - c. Stalking can be committed in engaging in conduct which is otherwise lawful.
3. 'Improper use of a public electronic communications network – section 127 – Communications Act 2003.
 - a. This provides that it is an offence for a person to send, by means of a public electronic communications network, a message or other matter that is grossly offensive or of an indecent, obscene or menacing character or to send by means of a public electronic communications network, a message that he knows to be false, for the purpose of causing annoyance, inconvenience or needless anxiety to another.
 4. Breach of the peace – common law offence.
 - a. The offence involves 'conduct severe enough to cause alarm to ordinary people and threaten serious disturbance to the community.' It has, to a certain extent, been superseded in practice by the offence of 'threatening and abusive behaviour.' The offence of breach of the peace requires a public element whereas threatening or abusive behaviour does not.
 5. Threats - common law offence.
 - a. Threats at common law are divided into two classes: those which are criminal in themselves, and those which are criminal when made with a certain motive or intention.
 - b. The first class includes threats "to burn a man's house...to put him to death, or to do him any grievous bodily harm, or to do any serious injury to his property, his fortune or his reputation."⁷⁶
 - c. The second class comprises all other threats, including threats of violence not amounting to grievous harm. These are criminal where, for example, the motivation is to deter a person from giving evidence in or threatening a judge to in reference to his judicial capacity. Attempts at extortion may be charged as common law threats where something other than money is involved.
 6. Sexual assault – section 3 – Sexual Offences (Scotland) Act 2009.
 - a. This provides that it is an offence for a person intentionally or recklessly to touch another person ("B") sexually, without B's consent and without any reasonable belief that B consents. The offence is wider than this description, but this part is most relevant to the issue of sexual harassment.
 7. Coercing a person to be present during sexual activity – section 5 – Sexual Offences (Scotland) Act 2009.
 - a. This provides that it is an offence for a person to intentionally engage in a sexual activity in the presence of another person (B) or intentionally cause B to be present while a third person engages in such an activity, without B's consent and without any reasonable belief that B consents, where this is done either for the purpose of obtaining sexual gratification or causing B to suffer humiliation, alarm or distress.

⁷⁶ A quote from para 48.01 of the fourth ed. of Gordon's Criminal Law, itself quoting Jas Millar (1862) 4 Irv 238 at 244 and adds "see also HM Advocate v. Baillie, 2013, S.C.C.R. 285 at [21]"

8. Coercing a person into looking at a sexual image – section 6 – Sexual Offences (Scotland) Act 2009.
 - a. This provides that it is an offence for a person to intentionally cause another person (“B”) to look at a sexual image without their consent and without any reasonable belief that B consents, where this is done for the purpose of obtaining sexual gratification or causing B humiliation, alarm or distress.
9. Communicating indecently, etc. – section 7 – Sexual Offences (Scotland) Act 2009.
 - a. This provides that it is an offence for a person to send, by whatever means, a sexual written communication to or directs, by whatever means, a sexual verbal communication, or to otherwise cause another person (“B”) to see or hear, by whatever means, a sexual written communication or sexual verbal communication where this is done without B’s consent and without any reasonable belief that B consents, and for the purpose of obtaining sexual gratification or causing B humiliation, alarm or distress.
10. Sexual exposure – section 8 – Sexual Offences (Scotland) Act 2009.
 - a. This provides that it is an offence for a person to intentionally expose their genitals in a sexual manner to another person (“B”) with the intention that B will see them, without B’s consent and without any reasonable belief that B consents, where this is done for the purpose of obtaining sexual gratification or causing B to suffer humiliation, alarm or distress.
11. Voyeurism – section 9 – Sexual Offences (Scotland) Act 2009.
 - a. This provides that it is an offence for a person to observe, record etc. a person (“B”) engaging in sexual activity or in a state of undress, without

their consent and without any reasonable belief that B consents, and for the purpose of obtaining sexual gratification or causing B humiliation, alarm or distress. (The actual definition is a touch more complicated than set out here, so as to cover so-called ‘up-skirting’.)

12. Disclosing, or threatening to disclose, an intimate photograph or film – section 2 – Abusive Behaviour and Sexual Harm (Scotland) Act 2016.
 - a. This provides that it is an offence for a person (“A”) to disclose or threaten to disclose an intimate photograph of another person (“B”) that is has not previously been disclosed to the public without B’s consent, when in doing so A intends to cause B fear, alarm or distress, or is reckless as to whether their actions are likely to cause such fear, alarm or distress. There are a number of defences to this offence, including that B consented to the disclosure, that A reasonably believed that B consented.

Considering the evidence presented in Section 4, it is clear that this set of offences is inadequate.

8.2 What is Missing?

We are recommending the creation of a Misogyny and Criminal Justice (Scotland) Act – the name in itself is a declaration of intent to address misogyny. The radical proposal is that this Act is created to address experiences of women. It will not be neutral law couched in the language of neutrality. It will address particular conduct experienced by women which derives from misogyny. We are recommending that the Act contains a Statutory Aggravation relating to Misogyny and three new offences.

The questions to be addressed for the Aggravation and each new offence are:

Why? What is new Aggravation or offence seeking to address?

How? How could the new Aggravation or offence be constructed?

8.2a A new Statutory Aggravation relating to Misogyny, where crimes that are not excluded are aggravated by misogyny

Why?

There are clearly offences which are not recognised as being inherently misogynistic (e.g. criminal damage, assault) that can, in their execution, demonstrate misogyny or may be motivated by misogyny.

In light of the above, the Working Group was asked to consider whether the sex aggravation should be added to the Hate Crime and Public Order (Scotland) Act 2021. The Working Group's response is that misogyny should NOT be addressed in this way. The foundational rationale for hate crime is valid when considering misogyny:

“-The harm which hate crime causes: it has a profound effect on the victim and the community group to which the victim belongs.

-The symbolic function which legislation fulfils: it sends a clear message to the victim, the group of which the victim is a member, and wider society, that criminal behaviour based on bias and inequality will not be tolerated.

-The practical benefits from having a clear set of rules and procedures within the criminal justice system to deal with hate crime. This should provide a structure for consistency in sentencing and rigorous recording, allowing statistics to be kept, and trends to be identified and monitored; the fact that the perpetrator has committed a hate crime should be reflected in his/her criminal record; it will increase awareness of hate crime, encouraging reporting of offences and ensuring that victims of hate crime will be supported throughout the criminal justice process.”⁷⁷

We are recommending the creation of a Misogyny and Criminal Justice (Scotland) Act – the name in itself is a declaration of intent to address misogyny.

Notwithstanding this validity, there are some vital elements of the Act and the rationale behind it which means it is a poor fit for women:

- Women are not a minority.
- There is no pervasive male-sex equivalent to misogyny. Adding 'sex' to the Hate Crime and Public Order (Scotland) Act 2021 would not create law for women, as women, reinforced by international human rights frameworks which are clear that there should be a presumption against gender-neutral laws (CEDAW, Istanbul).

⁷⁷ [Independent review of hate crime legislation in Scotland: final report - gov.scot \(www.gov.scot\)](https://www.gov.scot/resources/documents/2021/04/Independent-review-of-hate-crime-legislation-in-Scotland-final-report-gov.scot-2021-04-20.pdf)

- It fails to recognise that misogyny is experienced by the vast majority of women and the prevalence of violence against women, some of which is still normalised by our society.

Having agreed a poor fit with the Hate Crime and Public Order (Scotland) Act 2021, but recognising that there are crimes that are aggravated by misogyny, the Working Group therefore concluded that a separate Statutory Aggravation for misogyny should be created.

How?

In constructing the Statutory Aggravation, the following elements should be considered:

- The Working Group advises that the Aggravation defines misogyny as being prejudice and / or malice and / or contempt towards women. We add ‘contempt’ (which is not a feature of the traditional hate crime framework) as it speaks to denigration, disrespect or scorn towards women, which holds them in a subordinate position. This contracted definition of misogyny should be set against an understanding of the systemic injustice and inequality that women still face.
- Aggravations are about perceived membership of a group, as well as actual membership. Thus, the new Misogyny Aggravation should operate on that basis too. The Aggravation covers all women, as members of a single class. The use of the word ‘perception’ is a criminal law tool.
- There should be a ‘carve out’ of crimes where a misogynistic element is already recognised (and therefore appropriate sentencing is already possible). These crimes are rape, other sexual offences and domestic abuse. (Lists of the sexual

offences which should be included can be found in the Criminal Procedure (Scotland) Act 1995 s210A or s288c or the Sexual Offences Act 2003 Sch 3). Similarly, the Misogyny Aggravation should not apply to crimes where the aggravation in the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 can be applied.

This contracted definition of misogyny should be set against an understanding of the systemic injustice and inequality that women still face.

It is the Working Group’s view that judges should take be able to take into account the Aggravation when sentencing and record what difference the Aggravation made, if any. When there is no difference, the court should state the reasons. In some cases this may result in longer sentences or higher penalties for these offences, within the existing maximum.

The Aggravation would not apply to the new offences which we are recommending (see below). As with other aggravations, a single source of evidence should be sufficient to prove the Misogyny Aggravation.

The Aggravation should not be used when it is a woman who is the victim of crime and there is no evidence of misogyny – for example:

- A man throws a bottle as he is being ejected from a pub and it hits a woman.
- A woman shopkeeper is injured in the course of a shoplifting.

The mere fact that a woman is the victim of a crime is insufficient.

Examples of situations where the Aggravation might apply

- A road-rage offence against a woman driver where there is a high level of sexist abuse and where she locks herself into her car for safety.
- Groups of football fans / men on a stag night use threatening and abusive language on a train and when women complain they turn on the women, showering them with beer, and abusing them in deeply sexist aggressive terms (e.g. “piss off you ugly fucking bitches..”).
- The author of an incel manifesto deliberately drives his car into a group of women about to enter a feminist meeting.
- A man throws a brick through the window of a female politician’s constituency office whilst screaming misogynistic language (e.g. “you fucking bitch / whore / cunt”).
- A man assaults a woman journalist who writes about the male purchase of sex and calls for a ban, telling her she’s a fucking buttoned up prude.
- Scratching ‘cunt’ on a car or the property of a woman (such as a journalist, MP or activist) who speaks out on male violence.
- Spraying graffiti on the house of a well-known writer deriding her feminism.
- Throwing paint on women demonstrating to “reclaim the night.”

8.2b An offence of Stirring Up Hatred Against Women and Girls

Why?

There is a rapidly growing culture, with far reaching impacts, of stirring up of hatred towards women and which causes women, as a group, to feel vulnerable and excluded.

Antagonism towards particular ‘kinds’ of women ultimately denies the humanity of women as a whole.

It should be noted that often this stirring up of hatred presents as being hatred of a particular type of woman – a noisy woman, a successful woman, an opinionated woman. But the crime is about female identity. It is no defence to say “I only hate certain kinds of women – feminists, fat women or unfeminine women...”. As equal citizens women are entitled to hold views, present themselves as they like, enjoy their sexuality and should not be required to conform to a male defined stereotype of womanhood. It cannot be for men to decide what is appropriate ‘womanhood’. Antagonism towards particular ‘kinds’ of women ultimately denies the humanity of women as a whole.

How?

- An offence of threatening or abusive but not merely insulting behaviour, or communicating threatening or abusive material, with an intention of stirring up hatred towards women and girls.
- This offence is not about the offender’s perception of whether a specific individual is a woman. It is about stirring up hatred of women as a group.
- It is for the legislature to consider whether the term ‘women’ requires further definition in this context.
- Freedom of expression must be considered in determining whether the behaviour or communication was reasonable e.g. arguing against feminism, but no-one should enjoy freedom to stir up hatred towards women.

Examples

- An incel encourages his social media followers to assault women who refuse to have sex with men who have taken them on a date.
- An extremist religious preacher advocates physical punishment of women who have sex outside marriage.

Sentence

The maximum penalty for the offence should align with the ‘stirring up hatred’ offences at section 4 of the 2021 Act (7 years on conviction on indictment).

8.2c An offence of Public Misogynistic Harassment

Why?

The Scottish Government in bringing forth the Hate Crime and Public Order (Scotland) Act 2021 legislation made clear in its Policy Memorandum ⁷⁸ at paragraph 245:

“In response to a recommendation made by the First Minister’s National Advisory Council on Women and Girls to ‘criminalise serious misogynistic harassment, filling gaps in existing laws’ the Scottish Government made a commitment, in principle, to developing a standalone offence on misogyny. In order to progress this commitment, a Working Group is also being established to consider how the criminal law deals with misogynistic harassment, including whether there are gaps in legislation that could be filled with a specific offence on misogynistic harassment.”

The Working Group has developed further the

⁷⁸ [Policy Memorandum Hate Crime and Public Order \(Scotland\) Bill \(parliament.scot\)](#)

principle from the First Minister’s National Advisory Council on Women and Girls, taking the evidence presented in Section 4 (above) and its view that visible, public commitments to legal protections designed for women are necessary.

How?

It should be a criminal offence to engage in:

- Any sexual or abusive conduct, occurring in a public place, which is likely to cause fear, alarm, humiliation, degradation or distress to a woman or women, where either the accused intends to cause that effect or is reckless as to the likely effect of the conduct.
- Conduct is sexual if the reasonable person would consider it sexual. Abusive conduct is regularly interpreted by the Courts.
- The test of whether conduct is likely to cause fear, alarm, humiliation, degradation or distress to a woman or women should be an objective one. It should not be necessary to prove that any woman actually suffered any of these effects.
- The offence is committed whether or not the conduct is directed towards a particular woman or group of women.

By including ‘abusive’ conduct (which the courts are used to interpreting in s38 cases), we expand the scope of the offence beyond sexual behaviour to capture other types of offensive behaviour that fall short of threatening behaviour.

By having the threshold for criminality as a combination of ‘likely to cause fear, alarm, humiliation, degradation or distress’ **and** the mental element of intent or recklessness, the Working Group is aiming to strike a balance between capturing low level behaviour but not totally unwitting behaviour.

We deliberately state that the conduct need not be directed at a particular woman or group of women, to emphasise that there does not need to be a specific victim for the offence to be committed. The offence could be committed, for example, on a 'stag night' in a City Centre without the police having to check whether women actually witnessed the conduct.

Where the conduct is directed at a particular woman or group of women (i.e. where there is a specific victim), there should be no requirement to prove lack of consent or an absence of belief in consent. If the behaviour reaches the threshold for likely harm and is done with the necessary mental element, any question of consent or its absence should be irrelevant.

The list of potential harms; fear, alarm, humiliation, degradation or distress, reflects the sorts of responses typical of women (as evidenced in Section 4) – humiliation, distress etc. – rather than the reasonable person/man outcomes of fear and alarm. There is no doubt this new offence:

- Widens the scope of the criminal law.
- Lowers the threshold of criminality (compared to, for example, section 38, Criminal Justice and Licensing (Scotland) Act 2010).
- May create overlaps with existing law.

This widening of scope and lowering of the criminal threshold is the deliberate intention of the Working Group, and is reflected in thoughts on sentencing (see below). Overlaps will obviously result in Prosecutors exercising their discretion, a role that they are used to; by having a specifically labelled Public Misogynistic Harassment offence the Working Group aims to concentrate the minds of investigators and prosecutors.

A 'public place' is generally determined by the Courts. But it would include, for example, public transport, restaurants, clubs, bars, foyers and reception areas of hotels and public venues, as well as online platforms. Some places of work may be deemed 'public.' However, workplaces generally should not be beyond the reach of the criminal law. Too often, conduct in the workplace which is essentially criminal, such as sexual assault, Communication Act offences (involving offensive material sent to computers), sexual harassment and stalking, are considered the domain of employment law. Employees are encouraged to report such matters to HR departments but alas HR directors are often more interested in protecting an employer than the victim. Those at the receiving end of such behaviour should be encouraged to take them to the police.

Examples

- Showing a table of women in a nightclub extreme pornography on a phone.
- Intercepting a video conference call and posting extreme pornography into the space.
- Talking audibly about what should be done sexually to a woman or women.
- Telling a woman she is fat, ugly and sexually loathsome within the hearing of others.
- Making graphic sexual remarks to or about a woman stranger on the bus.
- Watching porn in a public place where it is clearly visible/audible.
- Gesticulating in a graphic sexual manner.
- Shouting sexually abusive remarks in the street about a woman's body.
- Using abusive language to a woman who refuses to engage in being "chatted up" at the bus stop.
- Rubbing up against a woman in a crowded place.

What would not be a defence?

- “When I said I wanted to give her a good fucking, I was just joking, taking the piss, paying her a compliment, the worse for drink.”
- “When I swore and cursed and said she was an ugly fat cow that no one would fuck anyhow, it was not unreasonable and was said because she was mouthy and told me to fuck off.”
- “It was just male banter.”
- “I was exercising my freedom of expression.”
- “I was brought up in a house where everyone had a filthy mouth. That’s how we talk. I meant no harm.”

Sentence

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.

Repeat offending should draw down heavier penalties. We would recommend that the vast majority of these offences would not attract the Sexual Offences Notification Requirements (meaning the convicted individual would be placed on the Sex Offenders Register) and we do not propose this offence is added to schedule 3. However, in exceptional circumstances judges may exercise their discretion and Sexual Offences Notification Requirements could be applied.

8.2d An offence of Issuing Threats of, or Invoking, Rape or Sexual Assault or Disfigurement of Women and Girls online and offline.

Why?

The issuing of threats of, or invoking, rape or sexual assault or disfigurement sits firmly within the Working

Group’s definition of misogyny. The Working Group recommends that this offence is constructed to cover:

- threats to rape or sexually assault or disfigure that women and girls receive (for example, “I’ll slash your pretty little face you fucking bitch”); and
- the invoking of these harms, that is the use of the language of male violence, reinforcing the subordinate status of women (for example “someone should slash that pretty little face of yours you fucking bitch”).

By weaponizing rape, sexual assault or disfigurement, the perpetrator is enacting a violent display of male power and reinforcing women’s objectification and subordination (see Section 7.2 above). The potential impact of these threats or this language may seem trivial to the perpetrator, if they think about it at all. The perpetrator may not ever intend to carry them out, or for them to be carried out. But the harms associated with these threats, and with this invoking of male violence, go beyond the trivial, particularly when they result in a ‘pile on,’ or joining in by others (sometimes in a matter of minutes). They cause serious distress and anxiety. For many women and girls, the experience has the ‘chilling effect’ of causing them to retreat from public discourse, public roles (like politics) - and even from participation in classroom discussions.

It is also important to note that the impact of the conduct that this offence is targeting is not limited to the immediate ‘victim’ of the conduct. Many women in the public eye have spoken openly about their experiences of receiving constant streams of misogynistic language and threat. It may be that specific women have become inured to this conduct. But the wider reaching impact on women and girls who know that this is happening, and who see it as a warning as to what their life might become if they

raise their heads or their sights too high, must be taken into account in understanding the seriousness of the conduct that this offence is seeking to address.

How?

It will be offence to issue threats of, or invoke, rape or sexual assault or disfigurement to women and girls. Whilst it is likely that the majority of this conduct is online, it may also be offline.

The impact of this offence should not need to be proved, nor should a mens rea. The conduct of itself is enough.

Should it become necessary to define a woman for the purposes of this offence, that is a role for the legislature. It is, however, important to the Working Group that this offence should not create a situation where a woman needs to prove that she is a woman. Should difficulty arise, the Working Group suggests that s255A of the Criminal Procedure (Scotland) Act 1995 could provide a useful model.

Examples

- “I’d love to watch you getting your fucking teeth kicked in, you slut.”
- “You need to be raped.”
- “Somebody should rape you.”
- “#Iwouldnteven rape [woman’s name].”
- “Anyone want to fuck [woman’s name] with me?”
- “A good spit-roasting is what you need.”
- Sending film clips of rapes, sexual assaults or disfiguring attacks.

Sentence

Using or Invoking Threats of Rape or Sexual Assault or Disfigurement of Women and Girls online and offline could be a summary or an indictable offence, depending upon the seriousness of the case. Factors

to consider could include the age of the victim, whether there has been repetition of the behaviour and / or whether doxxing (the sharing of private and identifying information) has occurred.

The Working Group’s view, ultimately, was that the idea of the neutrality of law is largely a fiction.

8.3 Challenges and Counter Arguments to the Creation of New Law

8.3a Gendered Law

The Working Group considered the appropriateness of gendered – ‘women only’ law and whether it can be justified. The Working Group’s view, ultimately, was that the idea of the neutrality of law is largely a fiction. When law is created which is designed to protect men as well as women, it usually creates a blur around the ways in which women’s lives can be markedly different from those of men and an ignorance of the life experiences of women, in terms of threat and fear in the public space. This blurring, or denial of difference of experience and of offender profiles, is never adequately challenged. And by seeking to tackle misogyny through neutral law, the Working Group would be advocating for a solution that suggests that the problem is a neutral one. In fact, the evidence is clear that there is a pressing social need to address behaviours **towards women**. The Working Group recognised that there are men who need protection from certain things, but that they do not need protection from public sexual harassment and misogyny.

The Equality Act 2010

The Equality Act 2010 creates a general duty to have due regard to Equality across all organisations and services. Its purpose is to eliminate discrimination, harassment, victimisation and other prohibited conduct, to promote equality of opportunity between people who share a protected characteristic and people who do not share it, and to foster good relations. Men and women can be found sharing **all** the characteristics listed. Racism or homophobia, ageism etc. can be experienced by both men and women. But unlike men, women can experience something unique - discrimination, harassment and victimisation and other harmful conduct simply because of their womanhood. It is for this reason that new law should be created to provide redress and justice for women facing misogynistic behaviour. The denial of this stark difference in the lived experience of men and women has confounded legal reform – and a woman-only law is a proportionate response to the scale and impacts of the problems outlined in this report. Women will not enjoy equality while misogyny is inadequately unaddressed.

8.3b Risks of Over Criminalisation:

The Working Group's discussion with Police Scotland suggested that the Police are sensitive to the issue of over criminalisation. It was also acknowledged that being able to record data to illustrate the scale of the problem, as well as the characteristics of perpetrators, would enable greater insight as well as vigilance around potential discrimination and proportionality.

8.4 Prosecution Policy

Mindful of the risk of over criminalisation, the Working Group recommends that in drafting prosecution policy,

the Lord Advocate considers a full suite of options for the Public Misogynistic Harassment offence, including:

- Police recorded warnings.
- Diversion to social work interventions (which may require the provision of new or tailored interventions not currently available, focused on raising awareness of the impact of harassment and generating empathy).
- Warnings from the Crown Office and Procurator Fiscal Service.
- On the spot fines.
- Prosecution.

The proposed offences must be applied in practice in a way that protects alleged perpetrators' due process and other human rights under domestic and international human rights law. Particular care should be taken when the alleged perpetrator is a person under the age of eighteen and their rights under the Convention on the Rights of the Child should be guaranteed.

8.5 Further on Implementation

It is clear from the study of other jurisdictions (see Section 6) and from evidence of shifting social norms more widely, that new law will be necessary, but not sufficient, to tackle misogyny. Sound precedent exists for an effective implementation approach from the Domestic Abuse (Scotland) Act 2018 which, the Working Group understands, brought together all relevant agencies to take the next steps with legislation. It will also be critical to invest adequately in training within Police Scotland and the wider criminal justice system. This training cannot be a 'one off,' centred only on the implementation of new law; it must become part of the ongoing professional development of all interested professionals, but

particularly in the Police, the Crown Office and Procurator Fiscal Service and the Judiciary.

new law will be necessary, but not sufficient, to tackle misogyny.

Police Scotland will play a crucial role in implementation and this role will be played out in an environment of doubt and uncertainty as to whether the Force has what it takes to tackle misogyny, not least after the conviction of police officer Wayne Couzens for Sarah Everard's murder and recent media stories about the culture within Police Scotland (see Section 5.4). The Working Group noted that there are data points which suggest that the force has a long way to go for women to feel that their lives, and the nature and impacts of misogyny, are properly understood by those whose role it is to protect their freedoms and keep them safe.

The Working Group has highlighted that prosecution policy should consider diversion to social work interventions. Appropriate investment will be necessary to ensure that this provision is possible.

Data and insights will play a critical role in further policy development and in evaluating the effectiveness of these recommendations. It is recommended that investment is made in women being able to report (without the requirement for follow up) instances of public misogynistic harassment to Police Scotland through an app or other mobile enabled technology. This of course will require investment, not just in the technology (although there are existing platforms such as the app FollowIt⁷⁹), but, critically, in public

awareness raising so that the technology is adopted and deployed to its full potential.

The Working Group sounds a note of caution when it comes to talking blithely about a need for 'culture change' in the Police, or more widely in society.

This note of caution is brought to life by former Her Majesty's Inspector of Constabulary, Zoe Billingham:

"It's [the IOPC report released on 1 February 2022 on the Met Police]⁸⁰ actually eye watering, the comments... despicable, disgusting, disgraceful. Enough simply is enough. But how many times have we been here? You and I [the radio presenter] spoke on the morning that Wayne Couzens was sentenced and we talked about the need for the police culture to change I think we've got to be really honest and start talking not about cultures - that's quite a kind of cosy nice sounding word isn't it? We've got to start talking about racism, bullying, misogyny, abuse of position; demeaning, disgraceful, discriminatory behaviour and that conversation needs to be had in forces up and down the land on a daily basis. We don't want to send officers on a course once every three years to talk about 'how should I behave as an officer,' this needs to be part of the current day to day conversation within policing..."⁸¹

Developing and improving **ongoing** training, building reporting mechanisms and raising awareness will all require investment and this investment should be prioritised in order to ensure that the new Act results in real differences to the lives of women and girls.

⁷⁹ [FollowItApp](#)

⁸⁰ [IOPC recommendations to tackle Met culture after investigation uncovers bullying and harassment in the ranks | Independent Office for Police Conduct](#)

⁸¹ BBC Radio 4 Woman's Hour 5 February 2022

8.6 Summary of Recommendations

The Working Group therefore recommends:

1. The creation of a “Misogyny and Criminal Justice (Scotland) Act.” The Act would:
 - i. Create a new Statutory Aggravation where a crime such as assault, criminal damage or threatening or abusive behaviour is aggravated by misogyny.
 - ii. Create a new offence of Stirring Up Hatred Against Women and Girls.
 - iii. Create a new offence of Public Misogynistic Harassment.
 - iv. Create a new offence of Issuing Threats of, or Invoking, Rape or Sexual Assault or Disfigurement of Women and Girls online and offline.

These are intended as a holistic response, not a menu of options.

2. The Working Group concluded too that legislative change is essential but insufficient to address the insidious problem of misogyny in Scotland. In addition, therefore, to the creation of a Misogyny Act, the Working Group recommends that the Scottish Government:
 - i. Involves all relevant stakeholders (including women’s groups and the Police Scotland) in implementation of the Misogyny Act.
 - ii. Provides sufficient resources for:
 - a. Education and training within the criminal justice system and for multi-agency support and awareness (medics, dentists, social services, educators) as well as the development of any new interventions such as awareness training required for diversions to social workers from the Procurator Fiscal).
 - b. Resourcing social work and other interventions, as required by prosecution policy.
 - c. Technology capability and police officer capacity for recording and reporting.
 - d. Campaigning and awareness – within public institutions, workplaces, education.
 - e. Learning from projects and good practice in other places and jurisdictions – e.g. Nottingham, Washington DC, France.

8.7 Finally, on Implementation

In submissions to the Working Group and through some of the wider discussion of misogyny, the concern is frequently raised that ‘misogyny is a complicated idea, it’s an élitist word, no-one knows what it means...’. This argument seems somewhat self-limiting. Misogyny has been a blindspot in the law, but it is increasingly recognised as a relatable concept that impacts women and girls everywhere – wives, sisters, partners, daughters. Education can breathe fresh meaning into the word – more aligned to contemporary discourse than to its classical derivation. And through this education, the commitment to its elimination will grow.

The eradication of misogyny is a challenging ambition. It will depend on legislating appropriately and a start should be made by implementing the recommendations from this Review.

There must also be adequate resourcing to support the implementation of the legislation by knowledgeable and committed leaders, criminal justice personnel and those working in other agencies. Without these steps being taken, women and girls will continue to face inequality and injustice. Our hopes for a society where the human rights of everyone are respected and where all can thrive and reach their potential will only be possible if we tackle this most deeply entrenched prejudice.

Annex 1:

Nottinghamshire Case Study

Nottinghamshire Police Pilot, Expanding Hate Crime Categories to Include Misogynistic Hate Incidents

In July 2016, Nottinghamshire Police introduced a pilot, which expanded its hate crime categories to include misogynistic hate incidents. A misogynistic hate incident was defined as ‘incidents against women that are motivated by the attitude of men towards women and includes behaviour targeted at women by men simply because they are women.’

One of the observed outcomes from Nottinghamshire was an increase in reporting of incidents by women and an increased confidence that women will be believed and their safety concerns taken seriously. Superintendent Ted Antill, Hate Crime Lead at Nottinghamshire Police during the pilot, reported that: “the mere fact that (Nottinghamshire police) have identified this as unacceptable behaviour and invited people to come forward and report it to us has given them a greater confidence that the types of behaviour that were referred to before, such as changing routes to work, using different modes of transport and changing dress, are no longer necessary, because they understand that if they are victimised, they have recourse through the police, whether for a non-crime incident or an actually criminal act.”⁸² Superintendent Antill also observed benefits for the police as they gathered better intelligence from the increase in reported incidents. In July 2018, an evaluation report was published by Professor Louise Mullany and Dr Loretta Trickett on the Nottinghamshire pilot. 679 people aged between 16 and 79 took part in a survey, interviews and/or focus groups. In summary, the evaluation found that:

- Misogynistic harassment is very prevalent, witnessed or experienced by 93.7% of the sample.
- 6.6% of respondents had reported misogynistic harassment to police. All of these respondents were aware of Nottinghamshire police’s misogynistic hate crime initiative.
- Types of misogynistic harassment experienced included “unwanted sexual advances (48.9%), groping (46.2%), sexually explicit language (54.3%) and indecent exposure (25.9%)... sexual assault (24.7%) and... online abuse (21.7%).”
- Women were far more likely to be victim of more serious harassment, and women from black and minority ethnic groups often experienced misogynistic and racially motivated harassment simultaneously.

Of particular note, the evaluation highlighted that use of the word ‘misogyny’ was not understood by a number of respondents. It was repeatedly reported that it was a complex concept and a word people were unfamiliar with. Further research on the pilot highlighted that “connotations of elitism and classism” were associated with the term and it was considered an academic concept. It was also highlighted that the meaning of misogyny was not clearly understood by the police officers. Both members of the public and police officers suggested gender hate crime was a more straightforward term, which more people understand. Of the six police divisions that have adopted the initiative, four have used “gender” and one has used “gender-based” as the category of hate crime, rather than misogynistic. A number of police officers in the Nottinghamshire evaluation felt that gendered hate crime was a more inclusive, as misogynistic harassment excluded male victims and female perpetrators. Generally, the initiative was not popular among police officers who responded, but there was overall support for the initiative from members of the public.

⁸² Misogyny Hate Crime received by Nottinghamshire Police - FOI 009280/16, 12th January 2017, available at: [Misogyny Hate Crime received by Nottinghamshire Police - FOI 009280/16 | Nottinghamshire Police](#)

Annex 2:

Further Insights on Misogyny

Misogyny in Education

There is extensive evidence that girls and young women experience misogyny in schools, colleges and universities, albeit that this evidence often comes from small sample size studies. The common themes are name calling, unwanted touching and sexual assault. Social media can also be a key feature or enabler of misogynistic experiences including the non-consensual distribution of intimate images, being forced to view pornography and other expressions of 'lad culture.'

The Educational Institute for Scotland conducted focus groups in 2016, reported in *Get It Right for Girls*⁸³, which surfaced behaviours including:

- Casual use of misogynistic language... for example 'slut,' 'skank' and 'whore,' referring to girls who express feminist opinions as 'feminazis';
- Dismissive and contemptuous attitudes of some boys towards female pupils and staff, and towards their mothers;
- Sexual entitlement in various guises – for example overt sexual propositioning of girls and young women through to boys' pushing, grabbing and groping of girls;
- Joking about the sexual abuse of and physical violence against women and girls, or framing conversations about the issue in such a way as to blame victims;
- Engagement in computer games that are demeaning in their portrayal of women and often normalise violence against women; and
- Sending/sharing through social media sexual images of women and girls either with or without consent, as well as use of social media to target sexual innuendo at girls and young women.

⁸³ [Get it Right for Girls \(eis.org.uk\)](https://www.eis.org.uk)

The damaging effects of these experiences on girls and young women cannot be emphasised enough. It is not simply a question of having 'a bad day at school.' As Dr Vanita Sundaram explained to the All-Party Parliamentary Group on Domestic Violence⁸⁴ in March 2017, these experiences act as controls on young girls' behaviour, teaching them to conform to normative expectations of 'femininity' and 'girlhood.' Experience in education informs both the aspirations and achievements of everyone in society. If girls are being held back, rendered self-conscious, objectified, diminished and undermined at school, kept 'in their place,' what hope for their abilities and confidence to raise their voices and presence, to access jobs worthy of their potential, progress at work, close the gender pay gap?

Intersectionality cannot, and must not, be ignored in any discussions relating to misogyny. A YWCA Scotland survey from 2018 reported that 34% of pupils and 33% of staff reported a racial element to sexual harassment. Seven in ten focus group participants thought minority ethnic girls experience sexual harassment 'more or differently' from their white counterparts. 62% thought LGBTI+ girls experience sexual harassment 'more or differently' from heterosexual girls.⁸⁵

The evidence of misogyny in education is not limited to pupil behaviour. Studies including the NUS's 'Power in the academy: staff sexual misconduct in UK higher education'⁸⁶ and Girlguiding Scotland's 'End sexual harassment in our schools 2017' provide evidence and examples of harassment of female students and pupils by male teaching staff⁸⁷.

⁸⁴ [APPG-Misogyny-as-Hate-Crime-Minutes-of-Meeting.pdf \(womensaid.org.uk\)](#)

⁸⁵ [YWL-Report-FINAL.pdf \(ywcascotland.org\)](#)

⁸⁶ [NUS staff-student sexual misconduct report @ NUS Connect](#)

⁸⁷ [Let's end sexual harassment in schools | Girlguiding](#)

Misogyny and Women in Public Life

The Working Group heard evidence from MSPs who shared details of the on and offline abuse and harassment that they routinely experience. The following themes emerged from this discussion:

- The murder of Jo Cox weighs heavily on many of these women. Safety and security are clear and present concerns.
- Whilst there are some protocols, for example the handing out of alarms, to boost the security of women MSPs, a bigger culture change is needed.
- MSPs contrasted the receptions of Lorna Slater and Patrick Harvie in the Holyrood Chamber, remarking on a greater level of hostility towards the newly elected woman MSP.

In 2019 the UN Special Rapporteur on the situation of human rights defenders, Michel Forst, presenting his annual report to the Human Rights Council in Geneva, warned that “in the current political climate, in which there is a backlash against human rights, women who defend and promote rights are often the first to come under attack.”⁸⁸ Whilst this warning from the UN focused, at the time, on human rights defenders in authoritarian regimes, the findings from the Working Group indicate that there is no room for complacency in Scotland with regards to protecting the rights of women in public life.

Misogyny at Work

Although much of the evidence of misogynistic behaviour focuses on public spaces, the evidence presented to the Working Group also revealed misogyny in the workplace. ‘Banter,’ patronising

comments, ‘mansplaining,’ active or passive exclusion of women from opportunities to develop, be promoted or to have more influence are all described by women as being part of the pattern of misogynistic behaviour – preserving male entitlement to the influence, power and rewards available in the world of work – and limiting women’s power and freedom.

It appears that the continuum and escalation of violence against women is very much alive in the workplace; it is not limited to public spaces.

Misogyny On-line

“We see voices being silenced on Twitter every day. We’ve been working to counteract this for 2 years... We prioritized this in 2016. We updated our policies and increased the size of our teams. It wasn’t enough”
Jack Dorsey CEO Twitter 2018.

“Twitter is still not doing enough to tackle the deluge of abuse women face on the platform. Our analysis shows that despite some progress, Twitter is not doing enough to protect women users, leading many women to silence or censor themselves on the platform.”
Rasha Abdul Rahim, Co-Director, Amnesty Tech
September 2020

“We take a comprehensive approach to making our platform a safer place for women, including writer clear policies, engaging with experts and developing cutting edge technology to help prevent abuse happening in the first place.... At Facebook we believe that women should have all the access to economic opportunity, education and social connection the internet provides.”
Facebook website July 2019

⁸⁸ [OHCHR | Women human rights defenders face worsening violence, warns UN human rights expert](#)

media is just a different way of committing these acts. Ultimately it's the misogyny lying behind it that's the problem. So, it's that we have to tackle, not just the means by which people are able to spread their hate and misogyny and abuse.”

First Minister of Scotland Nicola Sturgeon,
Toxic Twitter, Amnesty International March 2018 ⁸⁹

A summary from Recorded Crime in Scotland, 2020-21 (www.gov.scot) published on 28 September 2021 provided the following insights:

- In 2020-21, an estimated 360 crimes under the Domestic Abuse (Scotland) Act 2018 were cyber-crimes, an increase of 33% from the 270 recorded in 2019-20.
- In 2020-21, an estimated 4,390 Other sexual crimes recorded by the police were cyber-crimes, an increase of 37% since the estimated 3,210 recorded in 2019-20.
- The analysis also suggests an estimated 2,080 Other sexual crimes recorded in 2020-21 were both cyber-crimes and had a victim under the age of 16. This increased by 7% from the equivalent estimate of 1,950 for 2019-20. Over the same period the estimated number of Other sexual crimes which were both cyber-crimes and had a victim aged 16 or over increased by 87% from 1,110 to 2,080.

⁸⁹ [Toxic Twitter - A Toxic Place for Women - Amnesty International](#)

Annex 3: Insights from Beyond Scotland

Misogyny and Hate Crime Frameworks

- Canada and twenty states in the USA (including Texas and New Jersey) have a motivation category or status for gender or for sex within hate crime frameworks.
- There are numerous jurisdictions in England that record misogynistic conduct as hate: Nottinghamshire, North Yorkshire, Avon and Somerset, Greater Manchester, Surrey, Northamptonshire, Devon and Cornwall.
- Data from Canada⁹⁰ and New Jersey⁹¹ show that despite the inclusion of gender and/or sex in hate crime frameworks, cases reported and convicted are far fewer than for other categories such as race and disability.
- Evidence from New Jersey⁹², Texas⁹³ and Nottinghamshire⁹⁴, England suggests that some police officers and prosecutors are reluctant to enforce new provisions, taking the view that there were already laws in place to deal with violence against women. Further, evidence from these locations reveals a lack of understanding of new initiatives and legislative approaches.
- The Nottinghamshire programme whereby the Police record misogynistic conduct as hate showed confusion over the meaning of misogyny and what behaviours are included in the definition (see Annex One).
- All of the findings above point to the importance of properly resourced and sustained implementation measures for new law – involving the right organisations in developing legislation, investing in education, training and public campaigning.

Lessons from Washington DC

In 2018, the Street Harassment Prevention Act⁹⁵ was introduced, the first legal measure of its kind in the US. It created a legal definition of harassment, established a community-based Advisory Committee to study street harassment and develop model policies and training and requirements for a public campaign on street harassment. It was defined to focus on prevention and intervention rather than criminalisation.

The Act defines street harassment as:

“...any disrespectful, offensive or threatening statements, gestures or other conduct directed at individuals in a high risk area [e.g. public transport, school, library, mall, sidewalk] without the individual’s consent and based on the individual’s actual or perceived protected trait identified in the DC Human Right Act 1977.”

Whilst the Working Group’s recommendation is that street harassment is made a criminal offence, the approach in Washington DC of establishing a community based Committee and investing in public campaigning provides a useful model for implementation.

⁹⁰ [Police-reported hate crime, by type of motivation, Canada \(selected police services\) \(statcan.gc.ca\)](#)

⁹¹ [New Jersey | HATECRIMES | Department of Justice](#)

⁹² Original study was conducted by Jessica P. Hodge (2011). Gendered Hate: Exploring Gender in Hate Crime Law. Boston, MA, Northeastern University Press. Original source unavailable so arguments were taken from a published review conducted by, Jenness, V. (2013). Engendering hate crime law. Sex Roles: A Journal of Research, 68(5–6), 390–393

⁹³ Prosecutorial Perspective on Gender Bias Hate Crimes, Sept 2005, [Beverly A. McPhail, Diana M. DiNitto](#)

⁹⁴ See Annex One

⁹⁵ [The State of Street Harassment in DC | ohr](#)



Appendix 1: Summary of Working Group Activity

Date	Evidence / Presentations from
12 February 2021	Working Group Secretariat.
19 March 2021	Susannah Fish , OBE QPM MBA, retired Chief Constable, Nottinghamshire Police Force. Charlotte Fischer & Marsha Jephcott , Love and Power and Citizens UK.
30 April 2021	Professor Kate Manne , Cornell University.
21 May 2021	Dr Olga Jurasz , The Open University & Dr Kim Barker , The Open University Law School. Professor Liz Kelly , London Metropolitan University.
18 June 2021	Dr Bianca Fileborn , University of Melbourne. Fiona Vera Grey , Durham University.
23 July 2021	Claire Barnett , UN. Victor Madrigal Borloz , UN.
3 September 2021	Monica Lennon MSP, Gillian Mackay MSP, Gillian Martin MSP, Linda Fabiani (former MSP) Scottish Parliament

Date	Evidence / Presentations from
8 October 2021	ACC Gary Ritchie, CI Jim McMillan , Police Scotland Christine McLintock, Laura Sharp, Debbie Wilson , Law Society of Scotland Dr Andrew Tickell , Caledonian University
5 November 2021	Marsha Scott , Scottish Women's Aid Massie Geelen , Zero Tolerance Sandy Brindley , Rape Crisis Scotland
3 December 2021	Mariam Ahmed , Amina Heather Fiskin , Inclusion Scotland
	The Working Group also invited evidence from the following who were unable to participate: Annie Wells MSP Disability Equality Scotland Dubravka Šimonovic Professor Lilia Cortina

Appendix 2:

Lived Experiences Survey Questions

- 1. Have you experienced misogynistic behaviour in the last 5 years in any of the following places? Select all apply:**
 - a. In the street
 - b. In the workplace
 - c. At school/Uni/College
 - d. In a pub, club or other commercial place
 - e. On public transport
 - f. Online
 - g. I have experienced misogyny but not in the last 5 years
 - h. I have never experienced misogyny
 - i. Other [please state]

- 2. Have you witnessed misogynistic behaviour, in the last 5 years in any of the following places? Select all that apply:**
 - a. In the street
 - b. In the workplace
 - c. At school/Uni/College
 - d. In a pub, club or other commercial place
 - e. On public transport
 - f. Online
 - g. I have witnessed misogyny but not in the last 5 years
 - h. I have never witnessed misogyny
 - i. Other [please state]

- 3. Thinking about a specific incident from Q1 or Q2, if you feel comfortable, can you briefly describe what kind of behaviour you experienced or witnessed?**

- 4. What impact did the incident have on you? Select all that apply:**
 - a. I felt anxious
 - b. I felt frightened
 - c. I felt threatened
 - d. I felt violated/privacy invaded
 - e. I felt annoyed/irritated
 - f. I felt angry

-
- g. I felt embarrassed
 - h. I felt uncomfortable
 - i. I felt depressed
 - j. I lost confidence
 - k. I felt vulnerable
 - l. I felt undermined
 - m. I became more vigilant
 - n. I became more suspicious of strangers
 - o. I changed my behaviour in some way
 - p. It made me rethink my decisions e.g. clothing choices, posting online etc.
 - q. It didn't have an impact
 - r. Other [WRITE IN]

5. Did you report this incident to the police? Respond Y/N/DK

6. Did you report this incident to another person or agency in a position of authority (e.g. management, security staff, internet platforms)? Respond Y/N/DK

ROUTING DEPENDING ON ANSWER TO Q5 or Q6

**7. If yes, did the police and/or authority you reported the incident to take action?
Respond Y/N/DK**

**8. How satisfied were you with their response?
Respond: ON SCALE OF 1-5, Not satisfied at all (1) to very satisfied (5),
n/a (if didn't report/don't know)**

**9. If no, why didn't you report it to the police or someone in a position of authority?
Tick All That Apply:**

- a. Private / personal / family matter
- b. Dealt with matter myself / ourselves
- c. Dislike / fear of police or authority I could report to
- d. Fear of reprisal by offenders / make matters worse
- e. Police or authority could have done nothing
- f. Police or authority would not have bothered / not been interested
- g. Inconvenient / too much trouble

-
- h. No harm caused
 - i. Not criminal / too trivial / not worth reporting
 - j. Previous bad experience of the police or authority
 - k. Previous bad experience of the prosecution process or courts
 - l. Fear of being judged or not believed
 - m. Not applicable
 - n. Other (SPECIFY)
 - o. Don't know

10. Below is a list of possible options to tackle misogynistic behaviour in society. If you do not feel confident in responding to an option, please just leave the answer blank and skip to the next one.

On a scale of 1 to 5 (very ineffective to very effective) how effective do you think the following would be?:

- a. Education interventions (for example school based programmes teaching appropriate behaviours and healthy relationships)
- b. Public awareness raising campaigns e.g. to challenge the acceptability of misogynistic behaviour and to encourage reporting of such behaviour
- c. Give police powers to offer on-the-spot fines, for example for cat calling and street harassment, so that swift justice can be carried out
- d. Allow for courts to consider whether an existing offence was motivated on the basis of sex or gender and to take this into account when determining the sentence for the offence
- e. Create a new criminal offence for all types of misogynistic behaviour
- f. Do nothing more

11. What do you think would be the most effective way to tackle misogyny and why?"

12. Anything else you would like to add?

List of Organisations contacted to take part in the ‘Lived Experiences’ survey

- 6VT Youth Café
- Advocating Together (Dundee) SCIO
- Age Scotland
- Amnesty International
- Angus Child Protection Committee, Adult Protection Committee and Violence Against Women Partnership
- Angus Community Justice Partnership
- Antisocial Behaviour Officers Forum (ASBOF)
- Antisocial Behaviour Lawyers Forum (ASBLF)
- Bridges Programme
- British Transport Police
- CARE for Scotland
- Carnegie
- Children and Young People’s Commissioner Scotland
- Children In Scotland
- City of Edinburgh Council
- Community Justice Ayrshire
- Community Justice Scotland
- Community Justice Scotland (CJS)
- Community Safety Glasgow, Violence Against Women
- COSLA
- dsdfamilies
- Dumfries and Galloway Council
- Dundee City Council
- East Ayrshire Council
- East Dunbartonshire Council
- East Renfrewshire Violence Against Women Partnership
- Edinburgh Women’s Aid
- Education Scotland
- Educational Institute of Scotland
- Equate Scotland
- Falkirk Council
- Fife Centre for Equalities
- For a Fair, Just and Inclusive Scotland (FJSS)
- Glasgow Violence Against Women Partnership
- Glasgow Women’s Library
- Health and Social Care Alliance (the Alliance)
- Highland Council
- Hourglass
- Inclusion Scotland
- Leap Sports
- LGBTI+ Healthy Living Centre
- Midlothian Community Safety and Justice Partnership
- NHS Health Scotland
- Outside the Box
- People First Scotland
- Perth & Kinross Council
- RESPECT
- Respectme
- SACRO
- Safe Lives
- Scottish Bi+ Network
- Scottish Borders Council
- Scottish Care
- Scottish Children’s Reporter Administration
- Scottish Community Safety Network
- Scottish Human Rights Commission
- Scottish Legal Board (SLAB)
- Scottish Older People’s Assembly
- Scottish Sentencing Council
- Scottish Trades Union Congress
- Scottish Women’s Convention
- SCVO Highland
- SCVO Edinburgh
- Shetland Islands Council
- South Ayrshire Council
- STEP
- Stirling Violence Against Women Partnership
- Stonewall Scotland
- The City of Edinburgh Council
- Together: Scottish Alliance for Children’s Rights
- Victim Support Scotland

- West Lothian Council
- White Ribbon Scotland
- Who Cares? Scotland
- Wise Women
- Women and Girls in Scotland
- Women Together in Fife
- Women's Support Project
- YoungScot
- Youth Community Support Agency YCSA
- Zero Tolerance

Although all the listed organisations were invited to participate in and share the survey it is not possible to know which organisations responded and which did not.

The 'Lived Experience Survey Analysis' is published separately.



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