

# FRONTLINE RESPONSES TO DOMESTIC ABUSE IN SCOTLAND

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**Abstract** Scotland's progress in tackling domestic abuse is recognised for the gendered analysis which underpins it. This gendered analysis recognises structural gender inequalities as the context in which domestic abuse occurs, enabling more effective targeting of resources for prevention and response. The Domestic Abuse (Scotland) Act 2018, described as a 'gold standard' in legislation to tackle domestic abuse, draws on the gendered concept of coercive control. The Act seeks to recognise in law the nature of domestic abuse not as isolated incidents but rather as an ongoing exercise of power and control by the perpetrator, using various tactics. In this chapter, we describe what is known about domestic abuse in Scotland, the strengths and weaknesses of different data sources in capturing the gendered nature of domestic abuse and the reality of how victim-survivors experience it. We consider the multi-agency structures, in particular Multi-Agency Risk Assessment Conferences and Multi-Agency Tasking and Coordinating groups, which support Scotland's partnership approach in the front-line response to domestic abuse, recognising the crucial role of feminist third sector agencies alongside statutory agencies such as police, health, social work, and housing.

**Keywords:**  
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## Introduction

Scotland has been recognised for its approach to tackling domestic abuse in particular and violence against women (VAW) as a whole (Brooks-Hay *et al.*, 2019; Brooks-Hay *et al.*, 2018, Coy *et al.*, 2007; Lombard and Whiting, 2015; Stark, 2007); Stark has called the recent Domestic Abuse (Scotland) Act 2018 (DA(S)A) “a new gold standard” in domestic abuse legislation (Brooks, 2018). Scotland’s progress around domestic abuse is underpinned by its commitment to a gendered analysis, originating in grass-roots organisations and reflecting the crucial work of feminist activists within Scotland. Feminist non-governmental organisations continue to be respected as key partners in effective multi-agency working and policy development. Nevertheless, domestic abuse persists and Scotland faces considerable challenges in realising the promise of developments such as DA(S)A to tackle the ongoing harms to women and children.

### **The Scottish approach to understanding domestic abuse (as a gendered phenomenon)**

Scotland is part of the United Kingdom with a different legal system and separate legislative powers, and its own national police force, known as Police Scotland. In 2000 the Scottish Government adopted a gendered definition of domestic abuse, maintained through to the most recent national strategy *Equally Safe: Scotland’s strategy for preventing and eradicating violence against women and girls* (Scottish Executive, 2000; Scottish Government, 2018). The gendered analysis is based on the United Nations (UN) Declaration on the Elimination of Violence Against Women (1993) and understands domestic abuse as both cause and consequence of gender inequality (Centre for Families and Relationships *et al.*, 2013). Further key features of the Scottish policy definition are the focus on abuse between partners and ex-partners, rather than between family members; and the adoption of the term ‘domestic abuse’, in preference to ‘domestic violence’, to better represent the range of abusive behaviours (including psychological, financial, sexual and physical) that perpetrators may carry out as part of their overall course of controlling behaviours. Scotland’s strategic approach of situating domestic abuse as both a cause and consequence of gender inequality is considered good practice, and a “benchmark” for the other nations of the UK (Coy *et al.*, 2007, p. 7).

A gendered analysis recognises the context of structural gender inequalities in which domestic abuse occurs, enabling more accurate targeting of social change efforts and resources to prevent, respond to and eradicate it (Brooks-Hay and Burman, 2019; Nichols, 2013; Dobash and Dobash, 2004). Lacking a gendered analysis, assuming that there are no differences between men's and women's experiences of abuse, fails men and women (McFeely *et al.*, 2013). Research that seeks an understanding of precisely "who does what to whom" identifies domestic abuse as a problem of men's violence against women, with men more likely to perpetrate abuse more frequently, and more severely, with the purpose of creating fear in the victim and control over them (Hester, 2013, p.623; Dobash & Dobash, 2004). Domestic abuse is therefore gender asymmetric; a gendered analysis requires an understanding of the context of this abuse, in society's constructions of men and women and expectations of how they should behave (Brooks-Hay & Burman, 2019). A gendered analysis is relevant to different relationships, including the experiences of lesbian, gay, bisexual, transgendered, intersex and queer individuals (Whiting, 2007).

## Legislation

The Domestic Abuse (Scotland) Act 2018 (DA(S)A) came into force in April 2019. This Act created for the first time in Scotland a specific criminal offence of domestic abuse (previously domestic abuse had been prosecuted under a range of existing offences (e.g. assault, vandalism) with a possible domestic abuse aggravator). The offence draws upon the (gendered) concept of 'coercive control' (Stark, 2007), recognising that domestic abuse is characterised by an ongoing course of conduct rather than an incident, or even a series of incidents. The offence incorporates a range of abusive behaviours (covering emotional, financial, psychological and sexual abuse) where 'abusive behaviour' is understood to be that with the likely effect of: making a partner or ex-partner dependent on or subordinate to the perpetrator; isolating them from friends, relatives or other sources of support; controlling, regulating or monitoring their day-to-day activities; depriving or restricting their freedom of action; or frightening, humiliating, degrading or punishing them. The new offence also creates a child aggravator, to be applied where a child is likely to be 'adversely affected' by the behaviours of the perpetrator, recognising growing understanding of the harm caused to children by domestic abuse. The original purpose of creating the offence was to more properly reflect the ongoing experience by victims of multiple forms of behaviours by the perpetrator's exercise of power

and control, to make prosecution more effective (Thomson, 2014). While the Act was positively received, both within Scotland and internationally, considerable challenges remain for its implementation. Effective implementation is dependent on police officers, but also other frontline responders, recognising the subtle and insidious controlling behaviours that make up domestic abuse and on a significant shift in understanding from responding to incidents to recognising a series of interrelated events (Burman & Brooks-Hay, 2018).

### **Scottish data on domestic abuse: seeking to capture the scale and experience of coercive control**

While there are key data sources about domestic abuse in Scotland, all have limitations. In particular, most data collected in Scotland retains incident based measures of counting domestic abuse, which fail to capture the cumulative and persistent restrictions on women's (and children's) liberty which constitute coercive control (Brooks-Hay and Burman, 2019). The Domestic Abuse (Scotland) Act 2018 offers some opportunities for improving data collection to better reflect women's and children's experience of coercive control.

#### **Scottish police data**

Scottish Government produces an annual bulletin of domestic abuse incidents and crimes recorded by the police in Scotland. In 2019/20 the police in Scotland recorded 62,907 incidents of domestic abuse, 115 recorded incidents per 10,000 population (Scottish Government, 2021). Less than half of incidents, 40 %, included the recording of at least one crime or offence. Although there was only a 4 % increase in the number of incidents recorded compared to the previous year, there has been a marked rise in the number of domestic abuse incidents recorded by the police over the last fifteen years (from 45,331 in 2005/6).

While police data provide some useful information about the police response to domestic abuse, these are only a partial picture. Despite the rise in incidents recorded, most likely due to increased reporting, domestic abuse is still one of the most under-reported crimes (MacQueen & Norris, 2014).

## **The Scottish Crime and Justice Survey**

The Scottish Crime and Justice Survey (SCJS), a large-scale national victimisation survey of individuals within households, provides a picture of the extent of domestic abuse that does not come to the attention of the police. Despite key gaps in the survey reach (e.g. the use of residential address to identify survey respondents excludes women in refugees, a group who are likely to be among those most seriously affected by domestic abuse), SCJS findings consistently indicate that only around one in five incidents of domestic abuse are reported to the police.

The SCJS 2018/20<sup>1</sup> (Scottish Government, 2021a) reported that 3.7 % of women and 2.6 % of men experienced partner abuse in year prior to being interviewed for the survey. Young women (aged 16-24) were the most likely age group of women to report partner abuse in the past year (10.2 %). 21.2 % of women and 11.2 % of men had experienced partner abuse since the age of 16.

### **Children affected by domestic abuse**

Many children are affected by domestic abuse; a 2011 UK wide prevalence study found that 12 % of under 11s, 17.5 % of 11–17s and 23.7 % of 18–24s had experienced domestic violence between adults in their homes during childhood (Hester et al., 2011, p. 47). Children describe living with domestic abuse as living in a climate of fear (e.g. Katz, 2015); the impacts on children are wide-ranging, including ill-health, behavioural problems, under-performance at school (Mitchell & Morrison, 2019; Devaney, 2015).

Current Scottish police statistics do not include information about children affected by domestic abuse; the SCJS is also limited as it relies on adults' reporting of children's experiences rather than asking children directly (see Devaney, 2015). The 2018/20 SCJS reports some information about children: 32 % of those who experienced partner abuse in the twelve months prior to the survey said there were children living in the household when the most recent incident took place and over two-thirds of these, 71 %, said that children were present during that incident.

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<sup>1</sup> The SCJS includes a self-completion module on partner abuse. These modules, completed by the respondent in private, are reporting biennially, combining two sweeps of the annual survey, in order to provide appropriate sample sizes. The partner abuse figures 2018/20 combine the 2018/19 and 2019/20 SCJS surveys.

### **Data available from support services**

Established in 1976, Scottish Women's Aid (SWA) is the national lead organisation addressing domestic abuse in Scotland. SWA has a network of 34 specialist local Women's Aid groups providing support to women and children in the community and in refuge and runs a 24-hour national helpline offering information and support to anyone affected by domestic abuse. SWA conduct an annual census of women and children accessing these services on a single day. In 2020 SWA reported contacts on census day from 1,130 women and 261 children and young people; for 111 women and 16 children this was their first contact with Women's Aid (Scottish Women's Aid, 2020). The main reasons for accessing support were emotional support, practical support and legal issues. 341 women and 357 children and young people were living in refuge on census day, including those admitted that day. Refuge was requested for a further 31 women and 43 children on census day; the majority of these women and children were unable to be admitted due to a lack of safe and suitable space. These data are crucial to include in the picture of domestic abuse, remembering that only one in five incidents are likely to come to the attention of the police, giving a sense of the demand on (and the resource limitations of) frontline responders.

### **Moving data beyond the incident to capture the reality of coercive control**

One concern about both police statistics and crime surveys is the focus on discrete incidents or acts of abuse, while domestic abuse is characterised by ongoing coercive and controlling behaviours as a cumulative form of subjugation (Stark, 2007). Kelly and Westmarland (2016, p.125) argue that the criminal law and crime survey approach of identifying and counting domestic abuse in individual 'incidents' reflects the way that perpetrators downplay their behaviours (as isolated, out of character, not serious) and fails to capture the "heart and reality" of domestic abuse as a course of conduct experienced by survivors in the everyday. This failing contributes to what Myhill (2017, 42) describes as a "hugely misleading" apparent similarity in prevalence rates for domestic abuse among men and women in some data sets.

Johnson (1995; 2008) developed a key typology of intimate partner violence (IPV), which defines three forms of IPV: intimate terrorism (IT), situational couple violence (SCV) and violent resistance (VR). IT is differentiated by the attempt to exert general control over one's partner, using a range of power and control tactics, including violence. A single assault may enable the perpetrator to exercise ongoing control by non-violent acts, through creating a context of terror. IT is normally what is meant by 'domestic violence', 'spousal abuse' or similar terms. VR is used to describe someone affected by IT fighting back; it is distinct because the person resisting is not attempting to control. SCV describes conflict situations in relationships which escalate to violence; it is distinguished because it is not embedded in a pattern of controlling behaviour. Johnson uses his typology to consider gender in existing survey data, finding that (in heterosexual couples) SCV is close to gender-symmetric whereas IT is perpetrated almost entirely by men. Developing data collection to more effectively capture the reality of domestic abuse as a course of conduct is likely to contribute to a more accurate picture of prevalence by gender.

### **Opportunities of the Domestic Abuse (Scotland) Act (DA(S)A) 2018**

The creation of a new offence of domestic abuse (in force from April 2019), aiming to more effectively capture the experience of domestic abuse as an ongoing course of conduct, may provide opportunities for data collection to improve beyond the incident focus. The new offence may also provide data on the prevalence of harm to children through domestic abuse, through the aggravator to be applied where a child is likely to be 'adversely affected' by the behaviours of the perpetrator. Work is also ongoing to consider how the SCJS could be updated to reflect the new criminal offence. Initial Crown Office (2020) figures report that 1,065 charges were recorded under the new offence in its first year of operation. For 96 % of the charges the accused was male; the child aggravator was recorded against 24 % of the charges. However, the effectiveness of statistics on the new offence to more accurately capture the experience of coercive control depends on the ability of the police and other frontline responders to recognise the pattern and range of behaviours carried out by perpetrators to subjugate and coercively control a(n) (ex-)partner.

## **The role of Scotland's frontline services as part of a multi-agency response to domestic abuse**

Scotland has a longstanding commitment to partnership working as a platform for tackling domestic abuse, reiterated in *Equally Safe* (Scottish Government, 2018). Led by the national commitment, all local authority areas in Scotland have domestic abuse partnerships and/or training consortia, generally composed of statutory (police; housing; social work; community services; local NHS Boards) and third-sector organisations. The role of the third sector, with its roots in feminist activism, is crucial; a strong feminist voice persists in current Scottish third-sector organisations, and echoes in statutory decision makers.

Individual agencies have put in place national and local structures to respond to domestic abuse as a priority issue. For Police Scotland, a particular focus has been to improve victim care in partnership with specialist agencies (Brooks-Hay, 2019). Domestic abuse liaison officers (DALOs) are specially trained individuals with responsibilities to offer a personal contact point for victims, explain police and legal procedures and liaise with other agencies. Scotland's health services are seeking to redefine Gender-Based Violence as core business, recognising that health workers are in a unique position to identify and respond to domestic abuse (Scottish Government, 2008). The national health service in Scotland (NHS Scotland) have introduced a programme of routine enquiry in key areas including maternity services and health visiting.

### **Multi-Agency Risk Assessment Conferences (MARACs) and Multi-Agency Tasking and Coordinating groups (MATACs)**

A key development in partnership approaches is Multi-Agency Risk Assessment Conferences (MARACs). MARACs are regular, local and confidential meetings where statutory and voluntary agencies (e.g. police, health, housing, children and young people's services) share information in order to develop action plans to improve the safety of high-risk domestic abuse victims (Cordis Bright Consulting, 2011). A key professional feeding into the MARAC and ensuring that the victim-survivor's safety is central to proceedings, is the Independent Domestic Abuse Advocate (IDAA), a single specialist professional who works with victim-survivors



to develop a trusting relationship and who can help with everything they need to become safe (Robinson & Hudson, 2011).

Multi-Agency Tasking and Coordinating groups (MATACs) are a Police Scotland initiative aiming to identify and proactively target those domestic abuse perpetrators who pose the greatest risk of harm to victims and their families; fourteen police-led multi-agency groups have been rolled out across Scotland. Crucially, this reflects a victim-centred and perpetrator-focused approach to policing.

Neither MARACs nor MATACs have been formally evaluated in Scotland. Initial observations of MATACs suggest some promising results in relation to reduced levels of reoffending for perpetrators targeted by MATAC. Evaluation of MARACs is hindered by a lack of robust data (Steel et al, 2011) though the data available suggests MARACs may reduce re-victimisation and that women identify benefits to their experiences from agencies working together (Robinson & Tregidga, 2007). Additionally, Payton & Robinson (2016, p.256) suggest that MARACs contribute to a change in partnership practice, “from being ad hoc and discretionary to becoming routine and coordinated”.

MARACs focus on the most high-risk victims, that is, the top 10 % of those most likely to suffer serious harm or domestic homicide, as identified by the DASH-RIC (domestic abuse, stalking and ‘honour’ based violence risk indicator checklist). This risk assessment tool has been adopted by frontline responders in Scotland including police, health and voluntary services (e.g. the IDAAs). Limitations of risk assessment tools generally have been flagged (see Robinson and Rowlands, 2009); in particular in terms of MARACs the DASH has been criticised as privileging actuarially based decision-making at the expense of professional judgement, neglecting the complexity of cases. Use of the DASH in Scotland has not been evaluated. It is important therefore to be cautious about the current use of risk assessment in Scotland; irrespective of how good a risk assessment tool may be, its effectiveness will depend on how it is used.

Another multi-agency development is the Disclosure Scheme for Domestic Abuse Scotland (DSDAS), rolled out across Scotland in 2015. The scheme enables both the police to initiate or partners/friends/other agencies to request disclosure of a person’s history of domestic abuse. Where there is evidence of a concern a multi-

agency decision-making forum is convened to determine if a disclosure is to be made (and in what form). The purpose of the scheme is to enable a potential victim to make informed choices about the relationship and provide help and support around such decision-making. Such schemes are however controversial with concerns that they place the onus for stopping abuse on the victim-survivor and do not provide for victim safety (Duggan, 2012).

### **Challenges for maintaining Scotland's progress in tackling domestic abuse**

The response to domestic abuse in Scotland is located within a broader policy framework to address violence against women/gender-based violence, situating gender-based violence as both cause and consequence of women's inequality. The application of a clear gendered lens to domestic abuse, developed through the work of feminist NGOs and a long history of partnership working between statutory and voluntary agencies, has enabled Scotland's progress, and global reputation, on tackling domestic abuse. It is crucial that this gendered understanding remains at the front and centre of Scotland's response to domestic abuse, to address the current challenges.

### **Challenges for multi-agency working: operating on different planets**

One barrier to engagement across agencies is the difference in perspectives, agendas and practice models of different professionals working within different agencies, developed over time by organisations working in separate spheres, developing their own analyses and responses that may not always include a clear gendered perspective. Hester (2011) describes the domestic abuse, child protection and child contact spheres to be as far apart as different planets, with the gaps between them causing failures to inhibit harm to women and children.

Understanding and responding to domestic abuse within child protection poses significant challenges, notwithstanding the greater recognition in Scotland of the impact of domestic abuse on children (Morrison & Mitchell, 2019). Child protection often operates with unrealistic expectations on mothers to protect the children from the perpetrator of the abuse, while the perpetrator himself, the source of risk and harm, remains invisible to child protection services. Social work may attribute this

‘failure to protect’ narrative to women affected by domestic abuse where they are unable to separate from the abusive partner. This comes from the misconception, held in Scotland and elsewhere, that separation means safety, where research shows that domestic abuse often continues and escalates after separation (Radford & Hester, 2006).

Scotland’s work using *Safe and Together* has the potential to link the child protection and domestic abuse planets. *Safe and Together* is an approach to domestic abuse-informed child welfare. Three key principles underpin the model: (i) keeping the child Safe and Together with the non-abusing parent; (ii) partnering in a strengths-based way with non-abusing parents; and (iii) intervening with the perpetrator to reduce risk and harm to the child (Mandel, 2014). The City of Edinburgh Council was one of the first areas outside the US to adopt *Safe and Together*, and work is ongoing across other local authority areas and certain national structures (e.g. health visiting) to embed the model (Morrison & Mitchell, 2019).

Despite developments on the child protection planet, child contact remains an area of particular risk and harm. Contact between children and fathers post-separation provides particular opportunities for domestic abuse to continue, affecting both mothers and children (e.g. Holt, 2015; Thiara & Gill, 2012). Nevertheless, child contact systems and professionals may appear to ignore domestic abuse and the harm caused to children (and women) by ongoing contact, resting on automatic assumptions that contact between a child and a non-resident parent must be preferred (Hester, 2011). The failings of civil courts to consider domestic abuse persist despite statutory obligations in Scotland (Morrison et al., 2013). As with DA(S)A, whether legislative aims to protect women and children from domestic abuse are achieved depends on effective implementation, including a clear understanding among family court professionals of the gendered nature of domestic abuse and its impact on children.

A particular challenge for police: pro-arrest policies and dual reports or counter-allegations Scotland, in common with many other jurisdictions worldwide, has adopted pro-arrest policies; the joint protocol between Police Scotland and the Crown Office & Procurator Fiscal service (2019) sets out a pro-arrest policy where there is sufficient evidence (whether or not the victim is making a complaint). While such policies have the potential for more perpetrators to be held accountable for

their actions, an unintended consequence in Scotland as in other jurisdictions may be that more women risk arrest as perpetrators (DeLeon-Granados et al., 2006; Brooks and Kyle, 2015). The proportion of domestic abuse incidents in Scotland where women were recorded by the police as perpetrators and men as victims has increased from 9 % in 2002/03 to 15 % in 2019/20. Brooks and Kyle (2015) note that a possible cause for this rise is counter-allegations (where perpetrators falsely claim they are victims of domestic abuse, in order to deflect legal proceedings against themselves or extend their control) and dual-reports (where both parties in a relationship are reported to the police as perpetrators, and may include counter-allegations, violent resistance to coercive control or situational couple violence, as described by Johnson, 2008).

As part of work to implement DA(S)A, training aimed at achieving behavioural change across Police Scotland was commissioned by Scottish Government, from Safe Lives: Domestic Abuse Matters Scotland. This training included material around Johnson's typology and also around the tactics perpetrators may use to manipulate police officers/staff. As at May 2020, 18,496 officers and staff have completed the initial e-learning package of this training and 13,510 a one-day core training, delivered in partnership by a domestic abuse and a police expert; a further 700 have completed a second day of training to be 'champions' (Safe Lives, 2020a). Feedback forms from the training generally reported that participants felt their knowledge had increased in all areas of the training; future data on implementation of DA(S)A may help consider whether this training has in practice enabled police officers to meet the challenge of effectively identifying the subtle and insidious behaviours of coercive control and applying a gendered lens in their everyday practice.

### **Challenges for all: the persistence and scale of domestic abuse**

Domestic abuse has devastating consequences for those experiencing it, their children and families and their wider communities. It also has significant social and economic impacts. Despite the considerable progress made in Scotland to develop more effective legislation and policies, in practice domestic abuse persists, and the scale of domestic abuse is presenting challenges across the multi-agency structures as well as within individual agencies, statutory and third-sector organisations. Police Scotland estimate receiving a domestic abuse report once every nine minutes,

making it the single biggest demand on their time (Police Scotland, 2017). Safe Lives (2017, 2020) estimate that 39 MARACS are needed to meet adequate levels of provision in Scotland; 32 are currently operating, including three in development. Despite a positive evaluation of Scotland's first specialist domestic abuse court (Connelly, 2008), such provision is not available universally across Scotland.

Research in England suggests that improved recognition of the impact of domestic violence on children may mean that children are known to statutory services, but not necessarily that this means they have access to support or intervention (Stanley et al, 2011). As described above SWA, the main specialist provider of support and refuge for those experiencing domestic abuse, was unable to provide refuge space to most of the women and children requesting this on their census day 2020 due to the lack of safe and suitable space. In 2017/18 89 % of Women's Aid groups in Scotland reported a real term cut in their funding from local and central government, and an increased need to apply for short-term and ad-hoc funding to cover core work (SWA, 2019).

Significant resources and investment are required to ensure the capacity of statutory and third sector organisations to respond to the volume of domestic abuse. The longer term implications of the COVID-19 pandemic, with lockdown often facilitating intensification of abuse by perpetrators as well as requiring services and those affected by abuse to adapt how to access and what is provided in terms of support, compounds these pressures (Brooks-Hay et al., 2020).

While Scotland's legislative developments are promising, tackling domestic abuse depends on how these are implemented and further Scotland's gendered lens tells us that women's structural inequality in society, as both cause and consequence of domestic abuse, must be addressed.

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