



Law Commission consultation on hate crime

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These are the views of:	<i>Welsh Women's Aid (Third Sector) - the national charity in Wales working to end domestic abuse and all forms of violence against women.</i>

About Welsh Women's Aid

Welsh Women's Aid is the umbrella organisation in Wales that supports and provides national representation for independent third sector violence against women, domestic abuse and sexual violence (VAWDASV) specialist services in Wales (comprising our membership of specialist services and members of the regional VAWDASV Specialist Services Providers Forums). These services deliver life-saving and life-changing support and preventative work in response to violence against women, including domestic abuse and sexual violence, as part of a network of UK provision.

As an umbrella organisation, our primary purpose is to prevent domestic abuse, sexual violence and all forms of violence against women and ensure high quality services for survivors that are needs-led, gender responsive and holistic. We collaborate nationally to integrate and improve community responses and practice in Wales; we provide advice, consultancy, support and training to deliver policy and service improvements across government, public, private and third sector services and in communities, for the benefit of survivors.

We also deliver the Wales National Quality Service Standards (NQSS), a national accreditation framework for domestic abuse specialist services in Wales (supported by the Welsh Government) as part of a UK suite of integrated accreditation systems and frameworks. (More information on the NQSS can be found here: <http://www.welshwomensaid.org.uk/what-we-do/our-members/standards/>)

1. Compatibility with understanding of VAWG

Violence against women and girls (VAWG) is a cause and consequence of inequality between women and men, which intersects with factors such as ethnicity, age, class, sexuality and disability to impact on experiences of abuse and routes to recovery.¹ Misogynistic beliefs, attitudes and norms surround and drive the continuum of harassment, violence and abuse women and girls experience throughout their lives. Structural inequalities and discrimination based on class, sexuality, ethnicity, immigration

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status, ability, mental health or age, can lead to some women and girls being more likely to be abused and to face additional barriers in accessing justice and support. Intersecting inequalities within structures, practices and social norms can lead to additional layers of legitimising, condoning or concealing of harassment, violence and abuse which, in turn, sustains and reproduces these inequalities. Therefore, simply adding sex or gender does not take into account the complex nature of different and multiple forms of harassment, abuse and violence women and girls experience throughout their public and private lives.

Recognition of the prevalence, nature and interrelation aspects of the harassment, abuse and violence women and girls experience means that it is vital to look at this through the lens of misogyny as a form of hate, rather than a simple inclusion of sex and gender.

In developing a response to misogyny as a hate crime it is important to consider that many of the crimes that would be considered under this are already defined as forms of violence against women and girls which are recognised as explicitly gendered crimes. Under the Nottingham example, adopted elsewhere by policing, misogyny hate crime includes unwanted or uninvited sexual advances; physical or verbal assault; unwanted or uninvited physical or verbal contact or engagement; use of mobile devices to send unwanted or uninvited messages or take photographs without consent or permission.¹ It largely constitutes the sexual harassment that women experience throughout our communities. These crimes are encompassed within the UN definition of VAWG.²

Sexual harassment is recognised as underreported and the criminal justice response is limited. The aim of including it within a category of hate crime laws must be to in aiding the challenging and holding accountable of perpetrators and to create a culture where misogynistic attitudes are unacceptable.

2. Compatibility with state obligations

It important to consider the international obligation on the state, such as the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) which require states parties to “condemn all forms of discrimination against women and take, without delay, the necessary legislative and other measures to prevent it”.

Consideration needs to be made about ensuring that the process enhances and is compatible with improving the response to VAWG within these obligations.

3. Ensuring a survivor focused response

Welsh Women’s Aid are concerned about the potential consequences that an addition to hate crime definition would not be compatible with existing laws around violence against women and girls and the potential increased pressure on women and girls to provide additional evidence during what is

¹ <https://www.nottinghamwomenscentre.com/wp-content/uploads/2018/07/Misogyny-Hate-Crime-Evaluation-Report-June-2018.pdf>

² https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.21_declaration%20elimination%20vaw.pdf





already a traumatic process. We would also be concerned that the 'status' of the crimes may be lowered and there being a disparity in sentencing, similar to the current issues expressed by the LGBT+ community and people with disabilities.

We also want to raise the concern that attempting to categorise sex/ gender as a hate crimes may result in additional invasive scrutiny, and re-traumatisation for the survivor. Hate crimes already have low conviction rates and require a large amount of evidence to secure a conviction. Considering misogyny and VAWG are so prevalent in our society with equally low prosecutions/ convictions due to a perceived lack of evidence, we are concerned producing additional evidence in order to also prove the crime was a hate crime could result in too much added scrutiny and trauma for the survivor.

If the decision is made to class misogyny as a hate crime it will be crucial that development of what that will look like in practice will have to be undertaken in partnership with the specialist violence against women and girls sector to mitigate any of the outlined harms. In Scotland, a working group has been set up with Baroness Helen Kennedy QC chairing, to explore the development of legislative approach, we would recommend similar for England and Wales.

4. Intersectional perspective.

Welsh Women's Aid would be curious as to how intersectionality is viewed through the lens of hate crime law. If a person with multiple protected characteristics is the victim of a crime, how is it determined which is labelled as the hate crime, and can multiple be counted to demonstrate increased harm caused?

Women and girl's experiences of hate crimes that are already defined in legislation, such as those related to their race, LGBT or disability, often include misogynistic aspects. In addition, due to continued systemic gender inequality, they face additional barriers to support, reporting and justice. Recognising the intersecting experience of homophobia, racism, and ablism with misogyny is critical to recognising the full experiences of different women and girls. Similarly building this recognition into our responses is vital in addressing the additional barriers some women and girls experience.

This will require effective training at all levels of the response as well as systems that allow for the recording of this multi-layered experience of hate crimes by women and girls. It is vital that we ensure that the response to women and girls that experience all forms of hate crime is not tick box in nature and clearly identifies the intersecting identities of the individual woman or girls experience.

5. Ensuring there is a robust response to VAWG experienced by women involved in the sex industry

Women exploited through prostitution are amongst the most marginalised and stigmatised groups in our society. Prostitution is recognised by the UK government, including with CPS crime types, as a form of VAWG.



Welsh Women's Aid support a legislative framework that decriminalises those who sell sex and targets buyers, pimps and those who exploit in the context of prostitution with more robust prosecutions. Feedback from local frontline services shows that there has been trauma-informed practice from some police forces to treat sexually exploited women as vulnerable and instead criminalise those who exploit them. However, this approach is not consistent across all regions. Often women who are sexually exploited and abused will not choose to report to the police for fear of repercussions and previous bad experiences with law enforcement. Introducing an additional hate crime will not address these issues unless we have a legislative framework that supports women and targets perpetrators along with significant improved policing responses to women that are trauma informed and aligned to specialist support services.

We also share the concerns that the crimes experienced by women should not have a lowered 'status' due to being classed as a hate crime. Our key concern is convictions for hate crimes in these instances may be easier to achieve than convictions for sexually violent crimes, so there may be pressure to charge perpetrators with hate crime instead of rape or sexual violence in order to secure a conviction/ increase conviction rates at the expense of a delivering a proportionate sentence for the violent crime.

6. Recognising women's experience of homelessness

In the case of people experiencing homelessness we would like to point out that the ways in which women experience homelessness can be very different to men and often not as visible. If people experiencing homelessness were to be covered by hate crime law, we would encourage the commission to consider how this will protect less visible or 'hidden' homelessness and again as above take into account that the abuse experienced by women experiencing homelessness is often sexually violent and this must be a key factor in prosecuting/ convicting to ensure proportionate sentencing.

Welsh Women's Aid would cautiously agree that sex workers and people experiencing homelessness be specifically protected by hate crime laws. We specify cautiously as up until this point hate crimes protect an unchangeable part of a person's identity and the way they live their life. Sex work and homelessness is not an unchangeable defining characteristic, in the same sense that working as an administrator or renting a home is. If sex workers and people experiencing homelessness were protected under hate crime laws, we would call for the definition of what constitutes a hate crime to be amended to reflect this.

7. Online abuse and the responsibility of social media companies

Online violence against women and girls is exacerbated by the gendered norms of popular culture creating gendered specific risks that reinforce harmful stereotypes and gender inequality. Online abuse of women and girls is compounded with multiple forms of discrimination intersecting with racism, homophobia and ableism etc. Online abuse is not happening in a digital vacuum, it is an extension of and part of other forms of violence against women and girls. 'Online channels and spaces



are new or more opaque ways to perpetrate other forms of violence against women and girls.³ Therefore, the points of alignment with understanding VAWG and aligning to legislation made above, must also be applied when looking at online abuse. Welsh Women's Aid has produced a briefing outlining the online abuse experienced by women and girls and the actions of various actors that are required to address it, available [here](#).

Social media and tech companies need to be compelled to take more responsibility for the use of their devices and apps to further abuse. These need to be proactive, rather than the current processes that put the onus on survivors to manage and report the abuse they experience. This should include monitoring and closing accounts that share misogynistic and abuse content as well as target individuals and groups.

³ Ruth Lewis, Michael Rowe, Clare Wiper, 'Online abuse of feminists as an emerging form of violence against women and girls, The British Journal of Criminology, Volume 57, Nov 2017

