

PE1756/K

Hourglass Scotland submission of 12 October 2020

Hourglass Scotland is the only national charity that's calling time on the harm, abuse and exploitation of older people. We support older people experiencing (or at risk of) harm, abuse or exploitation, and work towards safer ageing and a fairer society for all older people.

The abuse of older people is a distinct phenomenon, Hourglass defines it as a single or repeated act or lack of appropriate action, occurring within any relationship where there is an expectation of trust, which causes harm or distress to an older person.

Consideration of Petition

Hourglass Scotland, formerly Action on Elder Abuse Scotland, would like to make the following points in response to [PE1756](#).

While Hourglass Scotland may not specialise in housing legislation, the charity can offer a perspective on the manifestations of abuse in later life to inform consideration of this petition. We would also like to highlight how existing adult safeguarding legislation, such as the Adult Support and Protection (Scotland) Act 2007, offers protection to older people and should be considered when examining housing legislation.

Domestic Abuse and Elder Abuse:

There is often confusion between 'domestic violence in old age' and 'elder abuse', which can result in victims of abuse "falling between the cracks of the elder abuse and domestic violence systems"¹. This is starkly demonstrated by polling we conducted in January and February 2020, which revealed that a quarter (25 percent) of Scottish residents don't believe that 'acts of domestic violence directed towards an older person' count as abuse.

1. This can often lead to domestic violence among older people, particularly older women, being treated differently or ignored at a criminal justice level as the focus is primarily on health and social care, and safeguarding for older victims, rather than access to justice.
2. Examining calls to the Hourglass helpline, the most common relationship between perpetrator and victim is 'Son/Daughter.' The most common location of abuse is the older person's own home. However, under current Scottish legislation, only abuse committed by a partner or spouse is regarded as domestic abuse, meaning there is often little recourse for those who experience abuse at the hands of other family members. Many older victims will therefore be led down an adult safeguarding route, with a primary focus on support and protection, rather than criminal justice.
3. Alternatively, older victims who do not meet the threshold for adult safeguarding intervention may be unlikely to access support from either framework, resulting in further missed opportunities to avail of support and therefore protection. As

¹ The San Francisco Consortium for Elder Abuse Prevention Institute on Ageing (1996), *Older Battered Women: Integrating Ageing and Domestic Violence Services*.

raised in the petition, Hourglass therefore strongly supports any mechanisms to remove abusive non-tenants, who may be family members, as a vital means of protecting older people. We also know that many older victims are terrified of speaking up about abuse, especially if they fear they won't be believed or they will be forced to move from their homes or prematurely enter residential care. Removing abusive non-tenants will therefore be a powerful tool in allowing older people to escape from difficult and dangerous domestic environments.

Unique Dynamics of Elder Abuse:

It is useful to outline some of the particular dynamics at play in manifestations of abuse against older people. Particularly misconceptions around the nature, extent and disclosure of abuse among older people, especially older women. For example, it is important to consider factors such as: generational differences²; shame³; conception of age and ageing among professionals⁴; loneliness and social isolation (see the Equal Opportunities Committee's 2015 report) resulting in greater fear of leaving an abusive partner.

In terms of housing, a key barrier includes the fear of being taken from or losing the family home and placed in sheltered accommodation. These fears involve a number of facets, including anxiety about loss of independence, the potential financial loss through losing their homes, as well as the state and condition of any sheltered accommodation available.⁵ This fear may be much less likely if the older person is able to reclaim control of their own home as the tenant, and ensure that the abuser or perpetrator is evicted from the living space.⁶

Adult Support and Protection

The petition recommends a change to housing legislation which we strongly support. There is clearly a risk that on top of the barriers faced by older victims in reporting abuse (detailed above), under the Matrimonial Homes (Family Protection) (Scotland) Act 1981, "The 1981 Act", and the Civil Partnership Act (2004), older people could face the additional barrier of requiring a court decision to remove non-tenants from their home. However, Hourglass would additionally draw attention to other relevant legislation, namely the Adult Support and Protection (Scotland) Act 2007 (ASP). To highlight where, in the case of housing, existing legislation does and does not offer sufficient protection to older people.

As well as changing the cited housing legislation, which in other situations is a mechanism to protect non-tenants' rights, bolstering public and professional awareness of ASP legislation would protect more older people from harm. When used appropriately, the ASP framework is a powerful tool for identifying, supporting and protecting vulnerable adults, however the Charity is aware that many individuals and professionals are unaware of the framework and its scope for safeguarding.

² Phillips, L. (2000) "Domestic Violence & Ageing Women", *Geriatric Nursing*, Vol. 21, No. 4, pp.188-195

³ Macdonald, L (2000) *Out of the Shadows: Christianity and violence against women in Scotland* (Edinburgh: Centre for Theology and Public Issues, University of Edinburgh)

⁴ Blood, I. (2004) 'Older Women and Domestic Violence' (London: Help the Aged)

⁵ Bowen E, and Rosalind S 'They Come with a Package of Issues: Challenges of Supporting Older Victims of Domestic Violence and Abuse' in Bowes, H (Ed.) (2019) *Violence Against Older Women, Volume 2*

⁶ Carthy, N. L., & Taylor, R. (2017). Practitioner perspectives of domestic abuse and women over 45. *European Journal of Criminology*.

An Effective Criminal Justice Framework

We know that many older people are often specifically targeted by those who seek to abuse or exploit them, often because they are seen as vulnerable or 'easy targets'. We strongly believe that such deliberate targeting needs to be reflected in criminal prosecutions, and therefore urge the Scottish Government to take forward our recommendation to introduce a new statutory aggravation on the grounds of vulnerability and exploitation. This was considered during the recent hate crime review, with the Scottish Government accepting that this behaviour does not fall within hate crime, but should nevertheless be considered in other areas of criminal law. Hourglass Scotland would strongly advocate such an approach as an important means of reflecting the seriousness of such crimes, and acting as an effective deterrent.