

Call for evidence - Racially Minoritised Women: Violence Against Women & Girls

About JustRight Scotland

JustRight Scotland is a registered charity (SC047818) established by an experienced group of human rights lawyers. We use the law to defend and extend people's rights, working collaboratively with non-lawyers across Scotland towards the shared aims of increasing access to justice and reducing inequality.

We provide legal advice and representation on human rights and equalities issues across a range of legal areas including: women's legal justice, trafficking and labour exploitation, EU citizen rights, migration and citizenship, disability and trans legal justice.

Whilst our work is specific to Scotland, our work covers both devolved and reserved policy areas, and as such we endeavour to respond to policy consultations across both Scotland and UK, where appropriate.

As public lawyers for people who face systemic inequalities, discrimination and disadvantage, we use the provisions of the Human Rights Act 1998 (HRA) in our work, daily. In addition to providing direct legal advice to clients, we also run outreach legal surgeries and helplines, deliver rights information, training and legal education, and contribute to research, policy and influencing work.

Our Response

Our response to Improvement Service Call for evidence on Racially Minoritised Women: Violence Against Women & Girls.

JustRight Scotland

JustRight Scotland is a Scottish Charitable Incorporated Organisation (SC047818) which provides legal services through its limited liability partnership, JustRight Scotland LLP which trades as JustRight Scotland (SO305962). This firm has been authorised to act as solicitors by the Law Society of Scotland (Registered No 53703).

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Please tell us about any relevant reports and/or evidence and data. You can provide links or send these to vaw@improvementservice.org.uk. You can answer the additional questions below if you wish to do so.

<https://interventionsalliance.com/domestic-abuse-in-black-asian-and-minority-ethnic-groups/>

What are the current experiences of racially minoritized women accessing support for VAWG? What are some of the challenges/barriers faced?

The Scottish Women's Rights Centre (SWRC) is a unique collaborative project that provides free legal information, advice and representation to women affected by violence and abuse.

The SWRC exists because of abuses of power and because a gap persists between women's experience of violence and abuse and their access to justice. The SWRC strives to fill these gaps by working with specialist solicitors and experienced advocacy workers.

Informed by our direct work with victims/survivors of violence and abuse, we seek to influence national policy, research, and training to improve processes and systems, and ultimately to improve the outcomes for women who have experienced gender-based violence (GBV).

We recognise that people of any gender can be affected by abuse and violence (including sexual violence). However, statistics show that these crimes are more often committed by men against women. Also, as the SWRC specifically supports women aged 16 and over, when we talk about victims/survivors in this response we will generally refer to women. Despite this, we are aware – and do acknowledge – any person can be subjected to these crimes.

Through our outreach services, we are afforded a unique insight into the legal landscape and the issues faced by victims/survivors of gender-based violence.

We offer weekly helplines which are triaged by our experienced advocacy workers signposting and providing information and legal surgeries and legal call backs where our solicitors provide free and confidential legal information and advice to women who have experienced gender-based violence.

It is through our direct contact with women across Scotland that we have seen the requirement for greater protection from abuse. We are aware that the need for such protection is always a prevalent issue for women although we have seen a sharp increase in the need for protection as a result of the Covid-19 pandemic.

The SWRC, therefore, welcomes the discussion and proposed movement towards increased protection for racially minoritised women and girls who experience violence.

From the outreach services run by SWRC, we often speak to women from racially minoritised backgrounds. Common issues that arise from these contacts include:

- Language/Communication/Accessibility barriers

Language barriers are a significant factor in women being able to access advice and support. At SWRC, we offer legal surgery appointments and callbacks and provide interpreters wherever required. This however often necessitates women to have a support worker that can make the initial contact with SWRC on their behalf. For women who live in rural areas where they cannot access the requisite support, as well as for women who are isolated by their abusive partners or who have limited access to technology or mobile phones, this creates an almost insurmountable barrier.

We strive to make our services increasingly accessible to ensure we are well-equipped to communicate with our clients, however that can also be a financial barrier to organisations as the cost of having interpreters or providing information in different languages can be costly.

Moreover, access to information online about accessing support and advice is often published in English. There are also issues around computer literacy and access to online information. For some racially minoritised women who do not have the skills or knowledge to use the internet and related communication methods, there is a greater reliance on support from third parties, telephone, and in-person services, all of which have been significantly impacted by the COVID-19 pandemic. This is further compounded where racially minoritised women reside outside the Central Belt area of Scotland. Until recently, Glasgow City was the only asylum dispersal site in Scotland, while Edinburgh continues to be a hub for international travellers, specialist services for women who are from racial minority backgrounds tend to be concentrated in these cities and surrounding areas. There are few specialist organisations and service providers based in the Highlands and Islands of Scotland, which creates a significant issue for women accessing the necessary support and advice when faced with GBV. Particularly, considering the recent wider dispersal of asylum seekers across Scotland, this issue is being brought into sharp relief.

- Lack of knowledge/understanding of UK/Scottish criminal and civil justice systems

Many women that have accessed SWRC's services have shared experiences of their lack of knowledge and understanding of the legal system in the UK. Women have reported that they feel their abusive partners have used their better understanding of UK legal systems and processes to their advantage to perpetrate further abuse against them, e.g., by making purposefully timed malicious allegations to the police, setting up recording equipment within their homes, threatening to report their partners to the Home Office etc.

Moreover, when the criminal justice system comes into play, many women do not understand the process or their rights as victims, accused persons or witnesses. Where adequate measures are not put in place to provide women with this information, they often face compounding difficulties including re-traumatisation, ineffective advice (e.g., around pleading to criminal charges), and a loss of their rights and options. Many

women are not aware of the civil justice remedies they may be entitled to seek including Criminal Injuries Compensation claims, Protective Orders, civil damages/personal injury claims, etc. This represents a serious access to justice issue. As noted below, this often leads women to continue to remain in abusive situations for fear of the repercussions of reporting or engaging with services.

We often hear of abusers using the civil justice system to further perpetrate and continue abuse. For example, in child contact and divorce actions by delaying and protracting proceedings. This is further compounded by the lack of interplay between the criminal and civil justice systems in Scotland, as recently highlighted in research by Michele Burman, Ruth Friskney, Jane Mair and Richard Whitecross on “Domestic Abuse and Child Contact: The Interface Between Criminal and Civil Proceeding.”

- Lack of trust

A further issue that we encounter regularly when working with women from racially minoritised backgrounds is a lack of trust. Addressing this issue will often require time and trauma-informed practice for a rapport to be built. Women in these circumstances have spoken to us about their abusive partners and the misinformation their partners have convinced them to believe. Moreover, ensuring these women have a full understanding of confidentiality when accessing our services is crucial so that they feel safe, empowered, and heard when making disclosures to staff.

The hostile environment, a set of policies which make life difficult for migrants living in the UK, has created widespread fear and suspicion among migrant women and a reticence to engage with services. This often results in women continuing to remain in abusive situations for fear of the impact that reporting to the police or engaging with services may have on their immigration status, relationships with their children, access to housing and finances, etc.

Sensitivity and consideration are also required to ensure that, where minoritised women are accessing services with the assistance of an interpreter, the interpreters used are qualified, trauma-informed, and trained to understand their roles fully and to maintain strict confidentiality.

- Lack of representation

Across Scotland, there are ongoing significant issues with access to legal representation and legal advice both in relation to ‘*advice deserts*’ and the current Legal Aid crisis. At SWRC, we are encountering more women from racially minoritised backgrounds who struggle to find legal representation. Often language barriers play a significant role in this, as accessing and understanding how to get legal aid is an additional hurdle to overcome. One such example involved several firms requiring a client to take a friend or family member with them to their legal appointments to interpret for them. This is hugely problematic as it compromises the confidentiality, as well as potentially the quality of interpreting and the resultant impact on the individual’s understanding of the legal advice with which they are being provided.

Racially minoritised women are also more prone to experience prejudice and cultural bias by service providers and sometimes by their solicitors. SWRC has on several occasions been in contact with racially minoritised women who did not feel well represented in their legal case, or experienced cultural bias and systemic discrimination in the justice system. This is especially the case in family-related and child-contact matters.

What are the current challenges and barriers for services in meeting the needs of racially minoritised women affected by VAWG?

Some of the current challenges and barriers experienced by services in meeting the needs of racially minoritised women affected by VAWG include:

- Demand far outstripping capacity & Under-resourcing

As a national service, SWRC is contacted by women across Scotland. The demands on our service are immense and we regularly receive more requests for legal representation than what we can take on. We will often seek to signpost women to other services that may be better placed to assist them, however, due to the impacts of the COVID-19 pandemic, the cost-of-living crisis, and the legal aid crisis, we increasingly hear from women they cannot access their local services. This is a widespread issue, amplified by the difficulties and barriers that women from racially minoritised backgrounds face.

We would highlight the research conducted in 2005 by Brittain et al that found that *‘a woman facing domestic violence has to make 11 contacts with agencies before getting the help she needs, however, this rises to 17 if she is BME’*. This figure represents the difficulties women from racially minoritised backgrounds affected by GBV faced in accessing the help they need some 20 years ago. This situation has worsened considerably in recent years due to the decline in service provision, funding, and resourcing of the VAWG sector, the chronic underfunding of public bodies - including the police and Social Work Services - and the Legal Aid system in Scotland, as well as the recent global and national events that have weakened the UK economy further.

- Lack of Trust and Confidence

The erosion of trust and confidence in public services - including the NHS, SWS and Police Scotland - is a serious issue in adequately supporting and protecting women from racially minoritised backgrounds. Often justice through the UK legal system necessitates engagement with such services and with an increasing reticence to become known to these services women are forced to remain in vulnerable and exploitative situations. The knock-on effect on VAWG services' ability to support women is significant and it undermines the efforts to safeguard and empower these women.

Moreover, our institutional barriers including the No Recourse to Public Funds condition that may be attached to migrant women's leave to remain in the UK - which automatically applies to undocumented women and women who have overstayed their

visas - further compounds the abilities of VAWG services to support women to escape abusive and exploitative situations. The shadow pandemic of domestic abuse that accompanied the COVID-19 pandemic has heightened the vulnerability of women from racially minoritised backgrounds, particularly in the cases of women who live outside the Central belt in Scotland and face additional barriers in accessing specialist support.

Are there examples of good practice from services supporting racially minoritised women affected by VAWG?

SWRC immigration surgery is a good example of good practice. This service recognises and addresses the intersecting issues faced by certain racially minoritised women who have both immigration-related issues and are affected by VAWG. This surgery offers a more comprehensive service, and the collaboration between our Scottish Refugee and Migrant Centre and SWRC means that the service user does not have to look for multiple services to receive the advice they need. Referrals between one centre and the other are internal, which makes the process more streamlined and faster for the service user.

Further, SWRC has recognised a need to improve provision of services for racially minoritised women to ensure fair representation throughout our services. We have recently launched Lived Experience Groups and an Accountability Committee to work to address any barriers and increase access to our services for underrepresented groups within the SWRC, including racially minoritised women.

Another example of good practice is training staff who provide these services to follow a trauma-informed approach, and training specifically on trauma as experienced by racially minoritised women.

Holistic and collaborative working models that adopt a trauma-informed and person-centred approach are needed in adequately supporting and empowering racially minoritised women affected by GBV. Often the issues faced by these women cut across multiple disciplines and areas of need (e.g., access to culturally responsive mental health services, emotional & practical support and legal advice being some examples). By adopting a collaborative approach to working with this client group, we can assist women to access the best support/advice/service for their specific needs. SWRC as a collaboration project demonstrates this as advocacy and legal services are brought together to ensure women are supported in accessing justice.

How could future VAWG policy better address the needs of racially minoritised women affected by VAWG?

Future VAWG policy could be better developed to ensure it adequately addresses the needs of racially minoritised women by:

- Engaging with women, specialist services and stakeholders to better understand the experiences of racially minoritised women;
- Improved collaboration with relevant community organisations and grass-roots initiatives that can improve access for women who may not otherwise engage with services;
- Embedding and learning from the lived experience of minoritised women who have engaged with services and agencies to better address the specific barriers that they have encountered;
- Advocating for targeted initiatives and providing funding for services that are Scotland-wide or that are based in areas that have '*advice deserts*'/limited services at present;
- Increased training provision and requirements for support services (CABs, VSS), public bodies (e.g., Police Scotland, the COPFS and SWS) and professionals (e.g., members of the judiciary, legal professionals, GPs and Social Workers) such as:
 - o Cultural competency training,
 - o Culturally responsive practice,
 - o Trauma-informed training,
- Increased Legal aid funding, to encourage more solicitors to take on legal aid cases;
- Funding for interpretation/translation services, especially for rare languages and specific dialects to ensure accessible, high-quality, trauma-informed services are available;
- Campaigns to fight cultural bias and prejudice in public services, the justice system etc.

Examples of organisations that could feed into improving VAWG policy to better meet the needs of racially minoritised women include:

- Shakti Women's Aid,
- Saheliya,
- Kenyan Women in Scotland Association (KWISA),
- AMINA – Muslim Women's Resource Centre,
- Hemat Gryffe Women's Aid, etc.

These community-based organisations work to support women affected by gender-based violence, so-called honour-based violence, including female genital mutilation (FGM) and forced marriage, and domestic abuse. They would be well placed to speak to the experiences of their service users.

For further information, please contact JustRight Scotland at:
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07.07.2023