



Rights of Women's Response to the Welsh Assembly Government's Strategic Action Plan to address Violence against Women and update the Welsh Assembly Government's Domestic Abuse Strategy.

Rights of Women welcomes the Welsh Assembly Government's (WAG) launch of a consultation on its Strategic Action Plan (SAP) to address violence against women and to update its an 'All Wales' National Strategy¹ : A Joint Agency Approach' (the Strategy) on domestic abuse which was published in 2005.

The SAP aims to 'tackle domestic abuse and make progress on the wider violence against women agenda over the next few years'². The key objectives are fivefold:

1. Prevention, Raising Awareness and Protecting Children,
2. Provide Support for Victims,
3. Improving the Response of Criminal Justice Agencies,
4. Improving the Response of Health Services and Other Agencies,
5. Supporting and Monitoring Delivery of the Strategy Including Performance Framework and Research and Evaluation

The specific violence against women actions in the SAP are:

Prevention, Raising Awareness and Protecting Children

- Publish Forced Marriage Guidance by May 2009
- Ensure that CAFCASS CYMRU continue to take actions, through the implementation of their Domestic Abuse Resource Pack to minimise risks to women and children associated with contact arrangements within family court proceedings

Provide Support for Victims

- Evaluate the extent to which available move on accommodation for women and families leaving refuges meets needs
- Complete the development of a project to support women fleeing prostitution including trafficked women in South Wales
- The Welsh Assembly Government will continue to liaise with the UK Government about finding a long term solution to support victims of domestic abuse who have

¹ The Strategy is available on

<http://new.wales.gov.uk/dsjlg/publications/commmunitysafety/domesticabusestrategy/strategie.pdf;jsessionid=y2J0JrrQP S1SpTHhfTqpGvTJn4TjQ1LyRnPpqzNR2Dn1bL3hWsf3!-1335101357?lang=en>

² Ibid, page 2.

- no recourse to public funds. This particularly impacts on women with insecure immigration status and trafficked women and there will be ongoing discussions with [voluntary organisations].
- Work will be undertaken by the Welsh Assembly Government to raise awareness about female genital mutilation which has been illegal in the UK since 1985. As part of the delivery of the Welsh Assembly Government's Forced Marriage and Honour Based Violent Action Plan we will be considering what actions can be taken to protect children and raise awareness across the children and young people's workforce.
 - The Welsh Assembly Government will explore with Community Safety Partnerships what more they can do at a local level to protect women in public places.
 - The Welsh Assembly Government will continue to respond to the problem of women and children who are trafficked into sexual exploitation.

Improving the Response of Criminal Justice Agencies

- Scope the need and deliver forced marriage training, where required, to frontline criminal justice agencies (this is in addition to health, education and social service front line staff).

Improving the Response of Health Services and Other Agencies

- Complete the review of enhancing delivery of services in Sexual Assault Referral Centres, SARC, by
 - Advising the Minister for Health and Social Services on any legislative or structural; changes needed to deliver all of the foundations for full public partnership in support of SARCs in Wales
 - The action needed to address the identified gap in health and social care policy to facilitate health and social care input to SARCs.
 - The linked policy and commissioning issues arising from services for the examination of children who may have been sexually abused.
- Enhance training delivery for roll out of the A&E pathway to ensure the new A&E pathway is being delivered consistently across Wales and continue to deliver the ante-natal care pathway.

Supporting and Monitoring Delivery of the Strategy Including Performance Framework and Research and Evaluation

- Evaluate the preventative work currently being undertaken with children in schools and other educational settings throughout Wales. This will cover domestic abuse, violence against women and other gender based violence and bullying.
- The Assembly Government will continue to uphold the revised *Personal and Social Education Framework for 7 to 19-year-olds in Wales* was implemented in schools in September 2008 and is the key document for schools. Under the health and well being theme there are opportunities for learners to
 - Develop respect for themselves and others
And to understand
 - The features of safe and potentially abusive relationships
 The Framework will be evaluated as appropriate as part of the review of the curriculum.
 - Review progress with the new BME outreach service in North Wales.

- Produce a report with recommendations for Forced Marriage training by August 2009. This will be aimed at primarily front-line staff in health, education and social service settings
- The Assembly Government will work with the UK Government in taking forward relevant actions arising from the Violence Against Women consultation exercise launched on 9 March 2009. There will be further consultation events on the Assembly's new plan.

Rights of Women's Response

Introduction

The Government of Wales Act 1998 (the Act) devolved certain powers to the National Assembly for Wales, as a result of which Wales had the power to determine how the government budget for Wales is spent. Further changes were made in 2006 in the Government of Wales Act 2006³. Under Section 94 of this Act, the Welsh Assembly Government has competence to pass measures/make laws in certain matters⁴. The consequences of violence against women engage a variety of legal and other issues. It includes marital or relationship breakdown, financial matters following relationship breakdown, harassment, trafficking, asylum/immigration and criminal injuries compensation. It also engages housing, health, social services and child protection matters for which the Welsh Government Assembly has responsibility under the Government of Wales Act.

In relation to aspects of violence against women, as noted above, Wales has its own national *domestic abuse* strategy which has been in effect since 2005. It is, however, worth noting that the lead responsibility for any criminal aspects of domestic or sexual violence in England and Wales remain with the Home Office and to that extent national action plans on domestic and sexual violence by Government will be applicable since they deal in part with setting national policy on criminal justice.

Rights of Women adopts and relies on its Response to the Government's consultation to end violence against women and girls as part of this Response to

3. The 1998 Act established the National Assembly for Wales as a single corporate body, with secondary legislative powers and 60 Assembly Members. The new arrangements provided for in the Government of Wales Act 2006 created a formal legal separation between the National Assembly for Wales, which is the legislature comprising the 60 Assembly members, and the Welsh Assembly Government, the executive, which comprises the First Minister, Welsh Ministers, Deputy Welsh Ministers and the Counsel General. This separation between legislature and executive took effect once the First Minister was appointed by Her Majesty the Queen following the Assembly election on 3 May 2007.

4 The relevant legislative acts are set out in Schedule 5 to the Act and include agriculture, fisheries, forestry and rural development, ancient monuments and historic buildings, culture, economic development, education and training, environment, fire and rescue services and promotion of fire safety, food, health and health services, highways and transport, housing, local government, public administration, social welfare, sport and recreation, tourism, town and country planning, water and flood defence, and the Welsh language.

the Welsh Assembly Government's consultation on its Strategic Action Plan (SAP) to the extent that our Response to the Government's consultation applies to non-devolved areas⁵.

Wales did not participate in the series of events held by the Home Office as part of the Government's consultation on ending violence against women and girls following the launch of the Government's consultation paper "Together we can end violence against women and girls" in March 2009. However, we understand that the Home Office is in communication with the Welsh Government about how best to work together, and indeed the SAP states that Wales will 'carefully consider any new initiatives emerging from the UK government's consultation'⁶. We welcome this, not least because the Government's own recent consultation⁷ set out an integrated approach and adopted the United Nations definition of violence against women.

Adoption of a Violence against Women Definition

In our view, there are two fundamental omissions in the Welsh Assembly Government's review of the SAP; the failure to adopt a definition of violence against women and the failure to adopt an integrated approach.

As noted above, 'All Wales' National Strategy is a strategy on domestic abuse not a strategy on violence against women. The Strategy defines domestic abuse as:

Domestic Abuse is best described as the use of physical and/or emotional abuse or violence, including undermining of self-confidence, sexual violence or the threat of violence, by a person who is or has been in a close relationship.

Domestic abuse can go beyond actual physical violence. It can involve emotional abuse, the destruction of a spouse's or partner's property, their isolation from friends, family or other potential sources of support, threats to others including children, control over access to money, personal items, food, transportation and the telephone, and stalking.

It can also include violence perpetrated by a son, daughter or any person who has a close or blood relationship with the victim/survivor. It can also include violence inflicted on, or witnessed by, children. The wide adverse effects of living with domestic abuse for children must be recognised as a child protection issue. The effects can be linked to poor educational achievement, social exclusion and

⁵ See Rights of Women's Response to the Government consultation which is available on our website; <http://www.rightsofwomen.org.uk/policy.php>

⁶ Strategic Action Plan, op cit. , page 19, paragraph 5.13.

⁷ Our Response to the Government consultation is available on our website; <http://www.rightsofwomen.org.uk/policy.php>.

to juvenile crime, substance abuse, mental health problems and homelessness from running away.⁸

Domestic violence is not a “one-off” occurrence; it is frequent and persistent.

The definition focuses on domestic violence and while it is inclusive of violence against men it acknowledges that the majority of abuse is carried out by men against women. It also encompasses violence in heterosexual, lesbian, gay, bisexual and transgender relationships and takes into account ‘honour based’ violence.

Figures provided by Welsh Women’s Aid and quoted within the All Wales National Strategy document indicate that 70% of domestic violence victims are women, that on average a woman is assaulted 35 times before she seeks help, that one in ten women is severely beaten by her partner at some point in her life and that 41% of all female homicide victims are killed by a partner or former partner. Clearly women are disproportionately affected by domestic abuse.

Wide-ranging and inclusive as the definition is, the gender-neutral definition of domestic abuse does not reflect the disproportionate impact of domestic abuse - as defined in the Strategy - on women.

The CEDAW Committee has previously expressed its concern at the fragmentation of the UK’s obligation to implement its obligations under the Convention on the Elimination of All Forms of Discrimination against Women⁹ because of the establishment of different regimes in Wales, Scotland and Northern Ireland which could lead to uneven protection of women’s human rights. It urged

‘...the Government of the United Kingdom to ensure that there was a unified strategy and policy implementation of all provisions of the Convention throughout the State party.’

In its concluding observations, and in line with its previous concluding observation in 1999, the CEDAW Committee called for

“...the enactment of a unified, comprehensive and overarching national strategy and policy for the implementation of the Convention throughout the United Kingdom... [we] call upon the State party to undertake all necessary measures to ensure the full implementation of this strategy in a

⁸ The All Wales National Strategy at page 6.

⁹ The matter was again raised in the forty-first session, July 2008, during examination of the UK’s 5th and 6th periodic Report to the Committee in compliance with the UK’s reporting obligations under the Convention on the Elimination of All Forms of Discrimination against Women which the UK ratified in April 1986. Each State that has signed up to the Convention must submit reports every 4 years informing the Committee, which monitors compliance with the Convention, of steps taken to comply with the provisions of the Convention. CEDAW/C/UK/Q/6.

consistent and coherent manner across its territory, including through the establishment of an effective coordination and monitoring mechanism on implementation”¹⁰.

The Committee has asked that the UK to provide information on the steps it has taken in this regard in the UK’s next report which is due in 2011.

It is Rights of Women’s view that the Welsh Assembly Government should adopt the United Nations (UN) definition of violence against women; that is:

“Violence that is directed against a woman because she is a woman, or that affects women disproportionately.”¹¹

This definition recognises that violence against women is gender based and thus discriminatory. As such, it is discrimination which impairs or nullifies the enjoyment by women of their human rights and fundamental freedoms under general international law and under human rights conventions. These rights include¹²

- The right to life
- The right not to be subject to torture or to cruel, inhuman or degrading treatment or punishment
- The right to liberty and security of the person
- The right to equal protection under the law
- The right to equality in the family
- The right to the highest standard attainable of physical and mental health
- The right to just and favourable conditions of work.

The definition of violence against women covers much more than domestic violence or domestic abuse as currently defined in the existing Strategy. It recognises the systemic nature of violence against women, it recognises that it cuts across lines of race, class, culture, and recognises violence against women as both a cause consequence of the low social and economic status of women.

Rights of Women believe that the Welsh Assembly Government should adopt the UN definition of violence against women because this definition enables a rights-based approach to tackling violence against women.

The adoption of the definition further recognises that an integrated and holistic approach is required to properly address the causes and consequences of violence against women.

10 Paragraph 16, CEDAW Committee Concluding observations, CEDAW/GBR/CO/6.

11 This definition is set out in the CEDAW Committee’s General Recommendation 19 of 1992 to the United Nations Convention on the Elimination of all Forms of Discrimination against Women, adopted in 1979.

12 See further, CEDAW Committee General Recommendation 19 of 1992, 11th session

In the SAP Consultation Paper, the Welsh Assembly Government states:

“The evidence is telling us unequivocally that there is still an imbalance of power between men and women in Wales and perhaps this is still representative of a long cultural legacy which has not recognised equality of opportunity for women in domestic settings.¹³”

The UN Declaration on the Elimination of Violence¹⁴ against Women states in its preamble

“[We] recognize[e] that violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women, and that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men”

Despite its recognition of the structural inequalities between men and women - one of the causes of violence against women according to the Special Rapporteur on Violence against Women in her very first report in 1995¹⁵ - the Welsh Assembly Government fails to adopt a definition that is internationally acknowledged to deal with the gender based, and inherently discriminatory, violence which might have served as a springboard to addressing the issue in a coherent, cohesive and comprehensive manner.

Further, the adoption of this approach would enable gender mainstreaming as an integral part of the Welsh Assembly Government's work in the relevant devolved areas. This would assure a gender perspective is central to all the Welsh Assembly Government' activities, ensure a strategic approach is taken to promote and achieve gender equality in policy development, research, advocacy, dialogue, legislation, resource allocation, ensuring that a strategic approach is taken to promote and achieve gender equality in planning, implementation and

¹³ SAP, op cit. note 7, page 3.

¹⁴ A/RES/48/104 1993

¹⁵ The first report of the Special Rapporteur, "Preliminary Report Submitted by the Special Rapporteur on Violence Against Women, its Causes and Consequences", Document E/CN.4/1995/42, available on www.un.org, was submitted to the 1995 session of the Commission on Human Rights. In her analysis of the causes and consequences of violence against women, the Special Rapporteur characterised the failure of governments to ensure accountability for violence - impunity - as the greatest cause of violence. She also traced other causes of violence to the unequal power relations between men and women, the subordination of women, politically, economically and culturally and attitudes towards women which rely on control as well as on cultural ideologies that justify the subordination of women through gender stereotypical roles. All these contribute to the prevalence of violence against women.

monitoring of Welsh Assembly Government's programmes and projects within its designated areas of powers and duties as opposed to the proposed isolated actions.

The SAP states:

“Our new strategic action plan ...plac[es] greater emphasis on actions, which address violence against women more specifically”¹⁶.

Any action to tackle violence against women is best served in an integrated manner. The CEDAW Committee recognises this and recommends it. Yet the UK continues to fail in its international obligations by not ensuring, devolution notwithstanding, that Wales adopts the definition having finally, for the first time in its own consultation, adopted the UN definition of violence against women.

There is still time for Wales to redress this fundamental omission in its approach by adopting the definition. This will assure a rights-based approach to tackling all aspects of violence against women as opposed to a fragmented inchoate action plan.

Exercise of Functions

The Welsh Assembly Government is required to take an inclusive approach in the exercise of its functions. This includes a requirement under Section 77 of the Act to exercise its functions with 'due regard to the principle of equality of opportunity for all people'¹⁷.

Areas in which the Welsh Assembly Government has devolved authorities and which are relevant to violence against women are education and training (prevention and raising awareness strand), health and health services (Provision of support for victims/improving the response of health services and other agencies strand), transport, housing (Provision of support for victims strand), local government, and social welfare (Provision of support for victims strand).

¹⁶ SAP, op cit. , note 7, page 3.

¹⁷ Section 77 states:

Equality of opportunity

(1) The Welsh Ministers must make appropriate arrangements with a view to securing that their functions are exercised with due regard to the principle that there should be equality of opportunity for all people.

(2) After each financial year the Welsh Ministers must publish a report containing—

(a) a statement of the arrangements made in pursuance of subsection (1) which had effect during that financial year, and

(b) an assessment of how effective those arrangements were in promoting equality of opportunity,

and must lay a copy of the report before the Assembly.

One of the key factors in gender based violence is that its discriminatory nature adversely impairs the ability of women to realise their rights. It is a cause and consequence of women's subordinate position. There are high social, health and economic costs¹⁸ to the individual and to society associated with violence against women. Women's opportunities are limited or even curtailed by violence and/or the fear of violence.

The Welsh Assembly Government must therefore ensure that its consideration of the 'principle of equality of opportunity for all people' comprises also the adverse effect violence against women has on their ability to achieve substantive equality.

Service Provision

There is a focus in the SAP on statutory services. We acknowledge the efforts being made to map service provision across Wales. We would note, however, that based on our experience, many women who experience violence prefer specialist women only services available only in the voluntary sector. A significant number of women accessing such services do not necessarily want to take things further i.e. use the criminal justice system. We also welcome the Welsh Assembly Government's intention to continue to liaise with Government about finding a long term solution to support women who have no recourse to public funds. However, efforts in this regard must be in context of continued provision of services such as refuges to women in a sustainable way. There is a lack of funding in the voluntary sector¹⁹ which has affected the provision of specialist services to women who experience domestic and sexual violence. The preference for large generic service providers as a result of competitive tendering and commissioning has been at the expense of the benefits of a specialised, women only service²⁰. The application of the gender equality duty in a gender neutral way by some local authorities has had an adverse effect on the promotion and realisation of substantive equality for women's rights and the provision of an adequate and reasonable service to those women who have experienced violence.

The CEDAW Committee made specific recommendations on the matter in its concluding observations following its examination of the Government's 5th and 6th periodic report. It recommended that the Government provide increased and

18 According to Sylvia Walby, the total cost of domestic violence to services (Criminal Justice System, health, social services, housing, civil legal) amounts to £3.1 billion, while the loss to the economy is £2.7 billion. This amounts to over £5.7 billion a year. Walby, 'The cost of Domestic Violence' 2004.

19 See further The Crisis in Rape Crisis, Women's Resource Centre and Rape Crisis (England and Wales), March 2008 and Not just bread, but roses, too: Funding to the women's voluntary and community sector in England 2004-2007, Women's Resource Centre, March 2009.

20 See further R (on the application of (1) Kaur (2) Shah (Claimants) v Ealing London Borough Council (Defendant) & Equality & Human Rights Commission (Intervenor) for details of a challenge to such an application of the gender equality duty brought by Southall Black Sisters, [2008] EWHC 2062 (Admin)

sustained funding to NGOs and Civil Society Organisation (CSOs) involved in women's rights, ensure that the interpretation and application of gender equality duty (GED) does not negatively impact on the provision of 'women-only' services or restrict the activities of women's organisations and requested that the Government conduct an impact assessment of its commissioning frameworks on the funding of women's organisations. It also expects the Government to report on these recommendations in the next periodic report due in 2011.

We ask that the Welsh Assembly Government take note of these recommendations in going forward with its SAP.

Conclusion

Primary responsibility to eliminate violence against women – through prevention, protection, provision of services, and punishment of perpetrators – rests with Government.

Nonetheless, the Welsh Assembly Government has responsibilities in key cross-cutting areas of housing, health, social services and child protection matters. In order to make sustainable gains in preventing violence against women with a view to eliminating it, the Welsh Assembly Government must adopt the UN definition of violence against women. The current definition of domestic abuse does not go far enough in recognising the continuum of violence that women experience. It also does not identify such violence as gender-based and thus omits the crucial element of discrimination that would allow a rights-based approach to tackling it. A gender perspective is missing from the Strategic Action Plan and this must be redressed. Adoption of a violence against women definition will inform the approach - and we consider it to be the correct and only approach - to tackling violence against women. This approach allows gender to be mainstreamed throughout all the relevant areas for which the Welsh Assembly Government has responsibility - education and training, health and health services, transport, housing, local government – to achieve sustainable long term gains in an integrated, gender inclusive manner whilst working towards the elimination of gender based violence.

We urge the Welsh Assembly Government to consider the additional steps we believe they can take to ensure that violence against women is addressed.

About Rights of Women

Rights of Women aims to achieve equality, justice and respect for women. Rights of Women advises, educates and empowers women by:

- Providing women with free, confidential legal advice by specialist women solicitors and barristers²¹.
- Enabling women to understand and benefit from their legal rights through accessible and timely publications and training
- Campaigning to ensure that women's voices are heard and law and policy meets all women's needs

Rights of Women provide specialist legal advice to women who have experienced domestic and sexual violence as well as to those who support them. The issues we raise, and our position, in this consultation response is informed by our experience and matters of concern to our service users.

For further information visit www.rightsofwomen.org.uk or telephone 020 7251 6575.

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²¹ For advice on family law, domestic violence and relationship breakdown telephone 020 7251 6577 (lines open Tuesday to Thursday 2-4pm and 7-9 pm, Friday 12-2pm). For advice about sexual violence, immigration or asylum law telephone 020 7251 8887 (lines open Monday 11am-1pm and Tuesday 10am-12noon).