



SCOTLAND

Issues and movements concerning Safer Ageing



Briefing Paper



ABOUT HOURGLASS

Hourglass (Safer Ageing) is the only charity in Scotland that specialises in supporting older victim-survivors of harm, abuse and exploitation. Older people experience the same forms of abuse as all other demographics, however it is rarely discussed.

Working across Scotland and throughout the UK, Hourglass has 30 years' experience dealing with the very worst elements of physical, sexual, psychological, economic abuse and neglect. The charity aims to protect all older people and prevent abuse and neglect by raising awareness of the issues, encouraging education and giving information and support to those in need.

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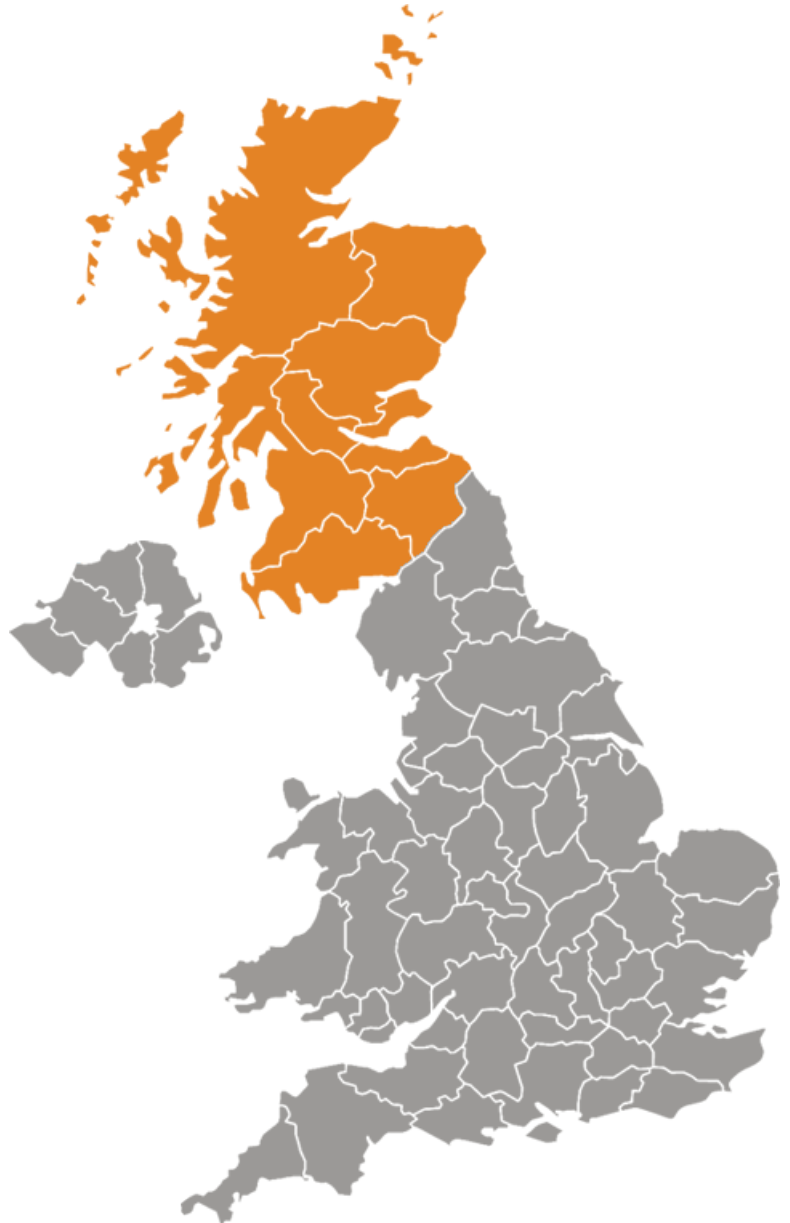
EXECUTIVE SUMMARY

This briefing assesses movements, issues, and legislation in Scotland concerning safer ageing and the protection of older people from all forms of harm, violence, abuse, and neglect.

First and foremost, we acknowledge that much of Scottish legislation and attitudes around the protection of older people and safer ageing has been pioneering amongst the four nations, in particular aspects such as being the first nation to give social workers power of entry.

However, there are a number of issues with Scottish policy and legislation as it currently stands. These include issues with:

- Data collection by police and in the safeguarding sector.
- The need for an economic crime strategy.
- Victims and Witnesses Commissioner and Older People's Commissioner roles in Scotland.
- The slow role out for 'Ask for Ani'.
- The limitations of the definition of domestic abuse.



INTRODUCTION

Scotland historically has been a leader with regards to protecting older people against abuse and neglect. It has been ahead of other UK nations in domestic abuse legislation and adult safeguarding practices. It was the first UK nation to give social workers powers of entry to investigate suspected abuse of vulnerable adults, including older people.

In recent years Scotland has started falling behind and not done enough to keep older people safe. Police Scotland and the Scottish Safeguarding sector have not collected proper data on abuse and crime committed against older people, especially when compared with comparable data sets from neighbouring Northern Ireland.

The decision in early 2023 to abolish the Older People's Minister was a mistake and one that the Scottish Government need to rectify. With an ageing population the Scottish Government needs a Minister to take up the challenge of supporting older people grow old safety. Instead, it feels like the well being of Scotland's older people has been deprioritised by the Government.

This report includes several recommendations which will help older people in Scotland grow older safety and free of abuse. We hope this or future Scottish Governments will take these recommendations onboard and work on a strategy to keep all older people safe.

DATA COLLECTION BY POLICE AND IN THE SAFEGUARDING SECTOR

Police and crime data on older victims is hard to gain in a Scottish context. Because only one constabulary covers the whole of Scotland – Police Scotland - larger freedom of information requests tend to be deemed as asking for too much data and fall under FOI time and cost restrictions.

The depth of information available within each report varies greatly from local authority to local authority. While some reports contain detailed statistical data about referrals, including trends in referral growth, others contain no information at all, and many key appendices containing figures were also not available online. This appears to be a continuing trend as a disparity in report detail and length was also noted by a report commissioned by the Scottish government in 2011 to examine the implementation, delivery, and outcomes of the Adult Support and Protection (Scotland) Act 2007.¹

SCOTLAND AS A LEADER IN ADULT PROTECTION

Historically, Scotland has been a leader in promoting justice and human rights. An example of this is the Adult Support and Protection (Scotland) Act 2007. This Act introduced powers of entry for senior social workers.² Wales has now followed Scotland in granting this power of entry.³ In 2021, the department of Health in Northern Ireland indicated that powers of entry for social workers were a policy item in the proposed Adult Protection Bill.⁴ In England, despite recent surveys indicating the majority of social workers support powers of entry⁵, the government have refused to implement this important adult protection measure. Hourglass believes that this is a mistake.

Anecdotally, Hourglass have been told having the power of entry in legislation makes it easier to gain entry to properties where there is suspected abuse and neglect. In most cases, social workers often enter the property with the consent of the occupant without having to rely on provisions in the Act. However, unfortunately we do not have current robust data indicating the use of powers of entry across Scotland. Hourglass understands that the number of times power of entry provisions have been used in Scotland is very low, but having them in place has provided a key means for immediate impact in cases of believed violence and abuse, and made it easier to investigate abuse and neglect in Scotland over the last 16 years.

Where Hourglass feels that this measure falls short in Scotland is the lack of reporting. Both in terms of how often provisions in section 4 of the Act have been used to enter a property, and how often social workers enter a property without having to use these provisions. Key and up to date reporting information is essential in order to effectively monitor and improve outcomes for older people.

STRATEGY TO TACKLE ECONOMIC CRIME

Data from the Hourglass helpline reveals that across the UK in 2022, £19,557,536 was reported stolen, defrauded or coerced from older victims. This is a 50.44% increase on the amounts reported to Hourglass from 2017-2019. Economic abuse is the most prevalent form of abuse reported to Hourglass. The impact of economic abuse in particular on older people can be devastating, especially if they are on limited incomes such as a state pension.

Many may lose large sums of money, lose property they have lived in for years, incur large debts, or simply not have enough money to live on and fall into poverty. Older people may also find it harder to recover financially from economic abuse because of the limited opportunities and time for investment and monetary growth compared to those aged younger.⁶ 11% of older people are already in “persistent poverty” having spent three years out of any four-year period below the poverty line⁷. This is only set to increase considering recent factors including the rise in inflation and the cost of living, economic effects from the Covid-19 pandemic, and the impact of the war in Ukraine on food and fuel costs.

Scotland needs a strategy to tackle economic crime, and specifically to explore how best to safeguard older people from this. Hourglass has previously written to First Minister Humza Yousaf requesting that the Scottish Government develop such a strategy and have requested to meet with the appropriate Minister regarding this. To-date, the charity has had no response to these requests.

Hourglass supports the proposal to introduce Willie’s Law in Scotland, which would require a medical professional to co-sign legal documents of vulnerable people to prove they have legal capacity.⁸ We do not agree with the Law Society that current safeguards strike the right balance.⁹ Hourglass see too many cases of economic abuse where vulnerable older people have not been given adequate protection, this needs to change.

VICTIM AND WITNESSES COMMISSIONER AND OLDER PEOPLE’S COMMISSIONER ROLES IN SCOTLAND

Hourglass supports the call for a Victim and Witnesses Commissioner and an Older People’s Commissioner in Scotland. The charity has joined Independent Age in supporting Colin Smyth’s private members Bill to create an Older People’s Commissioner.

It is regrettable that earlier this year the Scottish Government abolished the Minister for Older People post and instead made this part of the Minister for Equalities portfolio. In an ageing society we need a stand-alone Minister for Older People who amongst other things has responsibility for ensuring safeguarding and protection of vulnerable older adults. The decision to no longer have this role in cabinet only strengthens the argument for creating a commissioner role for older people.

However, any new commissioner role must have a clear purpose and goals. There needs to be strong oversight so that the Older People’s Strategic Action Forum (OPSAF) have oversight and take an advisory role over the work of this new commissioner role.

Older people are not a homogeneous group, and this proposal must ensure to address intersectionality and the impacts on protected groups as defined in the Equality Act 2010.

ASK FOR ANI

Ask for Ani is a UK government codeword scheme based around Boots and independent pharmacies (and with a current pilot in Jobcentres) which allows those at risk or suffering from domestic abuse to discreetly signal they need help, by asking a trained pharmacy worker for “ANI”. They are then taken to a private space, where the appropriate help can be accessed, whether that’s calling the police or the access of support services.

While Ask for Ani has seen success in Scotland, there are access issues limiting the effectiveness of the scheme. Availability of this service is much greater in the more populated and urbanised Central Belt than in the less populated and more rural Highlands and Islands of Scotland, and this needs amending in order that the service can help support the greatest number possible of older victim-survivors.

DEFINITION OF DOMESTIC ABUSE

There is a key difference between the definition of domestic violence and abuse in Scotland, compared to that within England, Wales and Northern Ireland.

The statutory definition laid down by the UK Government Domestic Abuse Act in 2021 is:

*‘Any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between those aged 16 or over who are, or have been, intimate partners or family members regardless of gender or sexuality. The abuse can encompass, but is not limited to psychological, physical, sexual, financial, emotional’.*¹⁰

The definition used in Scotland is: “Any form of physical, verbal, sexual, psychological or financial abuse which might amount to criminal conduct, and which takes place within the context of a relationship. The relationship will be between partners (married, cohabiting, civil partnership or otherwise) or ex-partners. The abuse may be committed in the home or elsewhere including online”¹¹.

This definition only considers domestic abuse as occurring between partners (married, cohabiting, civil partnership or otherwise) or ex-partners, and does not include family members. This is an issue from a justice standpoint as the current Scottish definition limits victims-survivors who have suffered violence and abuse from family members from accessing justice. As well as an issue from a data collection perspective, as it doesn’t allow cross comparison between Scottish domestic abuse data and that from England, Wales, and Northern Ireland.

CONCLUDING THOUGHTS

Although historically Scotland has been a frontrunner among the four constituent UK nations in providing effective protective measures and legislation designed to help provide justice and protect victims from violence and abuse, currently there are many gaps in Scottish policy and legislation provisions related to older people and safer ageing.

First and foremost, among these is access to data, both from a criminal justice as well as safeguarding perspective. In Scotland, 'age' is now a protected characteristic under hate crime law, however accessible access to data concerning older people is challenging both via the route of FOIs or via regular Police Scotland or COPFS releases. In all UK jurisdictions the police and prosecution services should adopt a standard policy for flagging 'crimes against older people'. Good data collection allows for informed policy and practice that can recognise the unique aspects of violence and abuse committed against older people, and as such filling in the gaps regarding abuse of older people should be an urgent priority.

As also noted above, issues remain concerning the current nature of the domestic abuse definition, the lack of a dedicated older persons focused ministerial role/commissioner, and the lack of an economic abuse strategy. Strengthening and either bringing these aspects into line with the other three UK nations or pushing forward with innovative and future looking measures are essential in order that older people in Scotland have the best chance to age safely and healthily.

RECOMMENDATIONS

A review of The Domestic Abuse Act (Scotland) (2018), to broaden the definition of domestic abuse to include abuse perpetrated by a family member or carer.

The legal definition of domestic abuse in England and Wales is not definitive and Hourglass, along with other organisations within the domestic abuse sector will support victims who may not fall within these definitions. However, it is notable that variations in definition in Scotland compared to the other UK nations both prevent access to justice for older victim-survivors, and negatively impact an already weak public awareness of domestic abuse in later life.

In all UK jurisdictions the police and prosecution services should adopt a standard policy for flagging 'crimes against older people'.

Some progress has been made in recording and sharing information between the police and prosecution services but there remain significant gaps. The policy in place under the CPS should be adopted by all UK police forces and prosecution services. The CPS (England and Wales) have developed a category that is not purely based on the age of the victim. It additionally considers the circumstances of the crime. In particular the policy states consideration of where there is an existing relationship and expectation of trust; where the perpetrator has perceived vulnerability of the older victim; where there appears to be hostility based on age. In Scotland, 'age' is now a protected characteristic under hate crime law, but data practice should adopt the three-part definition, considering the expectation of trust and perceived vulnerability as well as evident hostility based on age.

A review of the restrictions in the Freedom of Information Act (2001)

As Zuffova and others note,¹² restrictive freedom of information cost limits are antithetical to the idea of knowledge and information being a public good. In the Acts current state due to the asymmetry of collected information, requesters are regularly unable to effectively estimate where the exemption guidelines are, nor do requesters have a chance to verify if the refusals on cost grounds under Section 12 are genuine. Allowed cost limits should be increased, and in case the limits are exceeded, charitable/public organisations and journalists should have a choice to pay the excess costs but have their requests answered, as it is common in other parts of the world.

As well as this, it should be investigated whether it is feasible for response time limits to be shortened. While the current measures stipulating a reply in twenty working days are effective for broad non time sensitive projects, for queries of a time sensitive nature, the use and effectiveness of FOIs would be more than doubled if a shorter response time was available.

Fundamentally, public authorities, especially Police Forces and the COPFS should systemically publish regular public interest information, broken down into age categories.

Introduction of Willie's Law and an Economic abuse Strategy by the Scottish Government.

Hourglass joins the call to introduce Willie's Law in Scotland, which would require a medical professional to co-sign legal documents of vulnerable people to prove they have legal capacity. Hourglass also argues that there is a necessity for the Scottish Government to institute a strategy focused around economic abuse and older victim survivors. Hourglass sees too many cases of economic abuse where vulnerable older people have not been given adequate protection and the introduction of both Willie's Law and a Scottish government strategy on economic abuse would help ensure that safeguards are more readily available for vulnerable older victims/victim-survivors.

1. Sally Cornish and Michael Preston-Shoot, "Governance in Adult Safeguarding in Scotland since the Implementation of the Adult Support and Protection (Scotland) Act 2007," *The Journal of Adult Protection* 15, no. 5 (2013): , doi:10.1108/jap-02-2013-0003.
2. Under Section 4 of the Adult Support Protection Act 2007 council officers have rights of entry to places where adults are known or believed to be at risk of harm. If, following inquiries, a council officer believes that action is required, the council can apply to the sheriff for a protection order.
3. Part 7 of the Social Services and Well-being (Wales) Act 2014 authorise entry to premises (if necessary by force) for the purpose of enabling an authorised officer to assess whether an adult is at risk of abuse or neglect and, if so, what if any action should be taken
4. Hourglass (2021). A UK-Wide Approach to Adult Protection: National Policy on Powers.
5. M.J, Stevens, S. J., Martineau, C. M., Norrie., & J Manthorpe,. (2017). Helping or Hindering in Adult Safeguarding: an investigation of practice. Social Care Workforce Research Unit, King's College London. Pg. 16-18
6. Independent Age: Poverty in Later Life: How people in older age move in and out of poverty, and what should be done to reduce it. (2022)
7. Ibid (2022)
8. <https://shepwedd.com/knowledge/willies-law-testing-times-capacity-scotland>
9. <https://www.bbc.co.uk/news/uk-scotland-tayside-central-67359407>
10. <https://www.legislation.gov.uk/ukpga/2021/17/contents/enacted>
11. <https://www.gov.scot/publications/domestic-abuse-scotland-act-2018-interim-reporting-requirement/pages>
12. M, Zuffova (2021), Fit for Purpose? Exploring the Role of Freedom of Information Laws and Their Application for Watchdog Journalism. *The International Journal of Press Politics*. 29 (1).



Hourglass

Safer ageing · Stopping abuse

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