Foreword

Scottish Women's Aid (“SWA”) is the lead organisation in Scotland working towards the prevention of domestic abuse. We play a vital role in campaigning and lobbying for effective responses to domestic abuse.

We provide advice, information, training and publications to members and non-members. Our members are local Women’s Aid groups which provide specialist services, including safe refuge accommodation, advocacy, information and support to women, children and young people experiencing domestic abuse.

An important aspect of our work is ensuring that women and children with experience of domestic abuse get both the services they need, and an appropriate response and support from, local Women’s Aid groups, agencies they are likely to contact and from the civil and criminal justice systems.

We welcome the opportunity to comment on these important issues and set out our observations below.

Stage 1 and before

A review is needed on the timetabling of legislation. We have concerns on the volume of business that Committees are expected to simultaneously deal with since this, firstly, has the consequence of both the Committee being unable to give full consideration to any one Bill and engage with stakeholders and also causes difficulties for stakeholders being able to give multiple Bills careful consideration and submit detailed and meaningful comments.

For example, the Justice Committee’s business programme seems disproportionately full and recently, it has been required to consider several substantial Bills simultaneously; a LCM criminalising forced marriage and the Criminal Justice (Scotland) Bill. It will now be considering Stage 2 of this Bill, where numerous controversial and detailed amendments are expected, along with the Court Reform (Scotland) Bill, which runs to 128 sections plus accompanying Schedules.

We are also concerned about constricting periods of time allowed for submitting written evidence; in the case of the Court Reform (Scotland) Bill, the call for evidence allowed a short deadline in which to thoroughly review and consider the implications of these 128 sections and accompanying Schedules. Regardless of the fact that Bills, like the Court Reform Bill, may have been the subject of several consultations prior to the legislative stage, including, perhaps, a draft Bill, it is still necessary to read the Bill thoroughly and give it proper consideration.
Stages 2 and 3

The very tight time limits at Stages 2 and 3 are not enough to allow Committees or stakeholders adequate consideration of the, more often than not, numerous and complex amendments that are lodged, an issue of concern where the amendments are completely new or substantially alter the tenet of the existing sections.

These are often not easy to follow; stakeholders simply do not have time to go through, cross-reference and compare these, meaning that we lose the opportunity to identify areas of concern and raise these with the Committee or Parliament and these bodies miss out on external feedback.

Recent examples of this would be the Stage 2 and 3 processes of the Criminal Justice and Licensing (Scotland) Bill and the Children and Young People (Scotland) Bill, where a substantial number of detailed amendments were made.

There should be some flexibility in the time period which can be determined by the nature of the Bill and the complexity of the issue it addresses.

Stage 3 is a very important stage since it affords the Parliament as a whole a final opportunity to scrutinise legislation before it is passed but the Parliament is constrained in terms of both which amendments are selected for scrutiny and debate and the time period allowed to Members for this. Since they are required to consider the Stage 3 amendments and then vote on them on the same day, there is no adequate time to properly consider the implications of amendments or submissions by stakeholders. More time should be apportioned to allow Members time to digest Stage 3 amendments before voting on the Bill.

Post legislative scrutiny

Even though this is not specifically part of the review, we would comment that there should more post legislative scrutiny of Bills, to ensure that their intention is being fulfilled, that the legislation is working and being complied with.

In this regard, the Family Law (Scotland) Bill, which became the 2006 Act, is a case in point. SWA secured the support of the Justice Committee to include in the Bill amendments to the existing section 11 of the Children (Scotland) Act 1995. These amendments placed a duty on the court to specifically consider certain issues in relation to contact and residence where domestic abuse is present and were intended to further protect children and take their best interests into account.

However, the experience of women, children and young people using the services of our member groups is that the requirements of the amended 1995 Act are not always being followed, either by solicitors or the courts, which is a great disappointment, given the positive outcomes that both SWA, and the Committee and Parliament in accepting them, anticipated would be achieved.

SCOTTISH WOMEN’S AID
26 MARCH 2014