Introduction

Scottish Women's Aid (“SWA”) is the lead organisation in Scotland working to end domestic abuse.

We play a vital role in campaigning and lobbying for effective responses to domestic abuse and provide advice, information, training and publications to our 37 member groups and to a wide variety of stakeholders. Our members are local Women’s Aid groups which provide specialist services, including safe refuge accommodation, information and support to women, children and young people.

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 from the civil and criminal justice systems.

SWA welcome the opportunity to contribute to the European and External Relations Committee’s call for written evidence on this very important issue.

Foreword

The focus of the discussions around the impact of Brexit has been very much on economics and trade but SWA believes there is a danger that the impact on women, children and young people, in terms of workers’ rights and responses towards ending violence against women, run the risk of being overlooked in the “high level” economic and fiscal discussion and upheaval.

It is crucial that the debates, discussions, subject matter and implications of “Brexit”, across the board, are taken from a woman and children’s equality and protection lens and that meaningful inclusion, participation and consultation of women, and the third sector supporting them, will be undertaken to ensure that perspectives of women and children, and other marginalised groups, are embedded and included at all levels.

We support the positions advanced in the submissions from our sister organisations, the Scottish Women's Convention and Engender.

Human rights

Human rights are both devolved to the Scottish Parliament under the Scotland Act 1998 and reserved to Westminster under the Human Rights Act 1998. The recent announcement by the UK Government of their firm intention repeal the Human Rights Act and replace this with a Bill of Rights will impact on the rights of Scottish citizens and EU citizens living, working and studying in Scotland and will affect both their employment rights and right to fair and equal treatment.
Protective and reforming role of the EU in gender equality, women and workers' rights

Women are over represented, disproportionately so, in sectors where part-time, low paid jobs and “zero hour contracts” are a common feature and almost a “norm.” The loss of any ability to ensure that their working terms and conditions meet legislative requirements, not only within employment law but also under human rights obligations, would have a profoundly destructive effect on women in Scotland.

Of particular concern is the fact that the EU has played a considerable role in both providing programmes and funding priorities that promote gender equality and in obliging the UK to bolster its policy response and domestic legislation on gender equality and violence against women; the loss of any recourse for the State’s failure to act, and the enforcement mechanism and accountability role played by the European Court of Justice in protecting women’s rights is, therefore, of considerable concern. Given that the EU has consistently forced the UK to strengthen domestic legislation and policy development in terms of gender equality and violence against women, the gains made may be lost if they are no longer supported by European law.

Amongst these important legislative reforms are various Directives which supported women’s equality namely; the Directive on equal opportunities in and equal treatment of men and women in matters of employment and occupation; Equal Pay Directive; Directive on equal treatment of men and women in statutory social security schemes; The Pregnant Workers Directive ;The Parental Leave Directive; Directive on equal treatment of men and women in the access to and supply of goods and services; Part-Time Worker, Fixed-Term Worker and Working Time Directives and other anti-discrimination directives such as the Racial Equality Directive.

Violence against Women

In relation to preventing violence against women, the EU has played a leading role, through initiatives to tackle female genital mutilation and issuing directives on topics such as preventing and combatting trafficking in human beings, common minimum standards on the rights, protection and support of victims of crime, combating the sexual abuse and sexual exploitation of children, along with The Charter of Fundamental Rights of the EU, with its protective provisions, non-discrimination on the basis of gender, prohibition of inhuman and degrading treatment and the prohibition of slavery, forced labour and human trafficking, all of which relate to violence against women. The EU also supported and promoted the Council of Europe’s Convention on Preventing and Combating Violence Against Women and Domestic Violence, which the UK has signed but not yet ratified.

The “Maintenance Regulation “provides rules for determining which country’s court has jurisdiction in maintenance disputes and for determining which law will be applied, and for the recognition and enforcement of maintenance decisions from other member states. “Brussels IIa” provides important rules on the return of children abducted to, or wrongfully retained in, other member states, in addition to other private family law matters.
All of these instruments have made important contributions towards tackling violence against women and girls and gender-based discrimination. Any restriction in the right to access them and the EU mechanisms ensuring the ongoing, and even, further implementation of these instruments represents a loss of protection. For instance, there are concerns as to how reciprocal arrangements such as the European Arrest Warrant and the civil and criminal European Protection Order processes will operate, the latter being important mechanisms for women experiencing domestic abuse or harassment in allowing protective orders granted in one EU state to be recognised and enforceable in another.

The uncertainties around “what will happen next” as a result of the decision to leave is causing concern for women living in Scotland who are citizens of other EU countries or where their partner comes from outwith the UK.

Women and their children across the EU have routinely left their home countries to escape gender-based violence and abusive partners and it would be a betrayal of their hope for a safer and more secure future if their protections were, in fact, diminished.

Conclusion

The UK’s, and in particular, Scotland’s, membership of the European Union has been positive. It has led to a strengthening of women’s rights and conditions in the labour market, anti-discrimination legislation, equal access to certain social protections and improved access to justice for women, particularly in enforcing these rights. A great number of legislative initiatives and policy decisions emanating from Europe have been very positive on the lives of women and children and the uncertainty around whether these will sustain after “Brexit” is enacted is concerning.

The EU has also provided important funding allowing the implementation of violence against women and gender equality initiatives, rural development, transport infrastructure and many other areas that have supported women and children.

The First Minister listed five key interests that she would look to protect for Scotland during the coming negotiations, being “democratic and economic interests, social protection, solidarity and having influence.”

Discussions on Scotland’s relationship with the EU must ensure that gender, and other forms of equality are seen as mainstream priorities across all national and local policy development, to ensure that women’s rights, as currently protected by EU legislation continue to be guaranteed. Any and all proposed changes to policy and legislation must be subject to both Equality Impact Assessments and Children’s Rights and Wellbeing Impact Assessments.

As the potential ramifications and outcomes of “Brexit” have not been clearly identified and remain largely unknown at this time, it is vital that the ongoing conversations around these actively engage the third sector. There must be a demonstrable willingness to take on board the views of both individual organisations and the sector as a whole during negotiations with the UK Government, so that the voice of the organisations supporting Scotland’s most vulnerable people and the benefits we provide, particularly via the EU, are not lost.
There is a very real concern that those working to end gender-based violence and violence against women, particularly the third sector, will find it harder to achieve our goals in a landscape outside EU oversight where there are fewer accountability options and that “policy gridlock” and the “fall-out” from Brexit will distract government from their ongoing obligations and consideration of ongoing reform to shore up, and extend, equalities obligations and work to end violence against women and children.

Removing the legal framework and enforcement mechanisms EU membership affords creates the very real risk that current or future UK governments could withdraw, and redirect, focus from women and children’s rights, in addition to “rolling back” existing legislation, meaning that fundamental and hard-won protections would be lost and never regained.

We call on the Scottish Government and the Scottish Parliament to proactively seek to mitigate these risks, using whatever measures are in their powers.