

Briefing for the Citizen Participation and Public Petitions Committee on petition [PE2022](#): Introduce national safeguarding guidance on how higher education institutions should handle cases of sexual misconduct, lodged by Ellie Wilson

Background

The petition calls:

- on the Scottish Parliament to urge the Scottish Government to introduce national safeguarding guidance for dealing with cases of sexual misconduct in higher education institutions
- for this to include clearly defined measures to ensure campus safety where a convicted sex offender, or someone awaiting trial for a serious sexual offence, is enrolled at an institution.

The petition states national safeguarding guidance should include offering online-only classes to individuals awaiting trial, with appropriate disciplinary action to follow if sexual misconduct is proven.

This petition arises from the petitioner's own experiences of being raped while studying at university. While awaiting trial, the individual accused was suspended from their university. However, they were able to begin studying at another university despite this institution also being informed of the charges. The individual was later found guilty in a trial at the High Court.

The petitioner met with the then Minister for Higher Education and Further Education, Youth Employment and Training, Jamie Hepburn MSP, and representatives from the higher education sector. She [has also spoken out in the press](#) about the case, calling for national guidance to ensure students and staff are kept safe when sexual misconduct claims arise.

Equally Safe in higher education strategy

Equally Safe is the Scottish Government's strategy for preventing violence against women and girls, often referred to as Gender Based Violence (GBV). It was produced in partnership with the Convention of Scottish Local Authorities (COSLA), Police Scotland, Health Scotland and specialist groups including Scottish Women's Aid and Rape Crisis Scotland.

The Scottish Government's Equally Safe in Colleges and Universities Core Leadership Group takes forward this work with colleges and universities. The group's strategic aims are detailed in its [2022/23 and 2023/24 operating plan](#). The aims of most relevance to this petition are summarised below:

- [Increasing staff and student awareness of GBV and how to prevent it:](#) Supporting institutions to provide training for staff and students on GBV and sexual harassment referral/support routes.
- [Providing support for leaders:](#) Advising on the completion of guidelines on student misconduct for universities; support sector leaders to put in place GBV measures.
- [Identifying and sharing good practice on preventing GBV.](#)
- [Enhancing disclosure and data sharing:](#) Supporting the development of whistleblowing systems data sharing between organisations including Police Scotland.
- [Ensuring effective referral pathways and support for survivors:](#) Facilitating service co-ordination between institutions, NHS and Police Scotland.

Data collection

Universities Scotland has advised SPICe that they have been in contact with the petitioner on this matter since late 2022 and acknowledge her call for greater consistency and transparency around sharing information.

A sector-wide approach on keeping students safe in cases where applicants or existing students may have unspent criminal convictions and/or be awaiting trial for sexual offences is being looked at. Such an approach requires the establishment of a lawful basis for the collection and use of sensitive personal student data, by institutions, where there is a demonstrable specific and proportionate need. Universities currently make their own assessment of if, when and how they collect this data, informed by a data privacy impact assessment, as consistent with data protection legislation.

UCAS currently collects this data from students at the point of application to degree courses where protection of vulnerable groups is a factor. This data is collected on a self-declaration basis and has not been collected from students applying for other courses since 2018.

Universities Scotland stated:

“Scotland’s universities start from the position of wanting to establish a legitimate basis for the consistent collection of this data where students have unspent convictions for crimes that could pose a threat to other students. This work is being taken forward in consultation with key partners such as the Scottish Government and UCAS, with regular updates provided to a wider set of stakeholders. In doing so we need to balance a range of statutory and moral responsibilities to student safety and wellbeing, data protection legislation, a belief in access and participation and respect for fundamental principles of the justice system. We hope to be able to publish a common baseline of practice

for the higher education sector by the early summer and fully intend to re-engage with Ms Wilson in advance of doing so.”

Gender Based Violence Charter

The [Gender Based Violence \(GBV\) Charter](#) was launched by the EmilyTest charity in 2021. EmilyTest was set up following the death of student Emily Drouet in 2016, following a campaign of GBV from a fellow student.

Colleges and universities can sign up to the GBV Charter to receive staff support, resources, feedback and opportunities to share practice. Institutions must meet minimum standards to prevent GBV set out by the Charter. Institutions then ‘Take the Test’ by presenting evidence of their work to a panel of experts.

There are 16 universities and colleges across Scotland currently enrolled in the Charter.

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May 2023

The purpose of this briefing is to provide a brief overview of issues raised by the petition. SPICe research specialists are not able to discuss the content of petition briefings with petitioners or other members of the public. However, if you have any comments on any petition briefing you can email us at spice@parliament.scot

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