

# Briefing for the Citizen Participation and Public Petitions Committee on petition [PE2182](#): Review the Domestic Abuse (Scotland) Act and introduce a minimum sentence for severe offences, lodged by Hannah Doig

## Introduction

The [petition](#) calls on the Scottish Parliament to urge the Scottish Government to:

- review the definition of domestic abuse in the [Domestic Abuse \(Scotland\) Act 2018](#) (referred to below as the 2018 Act but also commonly referred to as DASA)
- introduce a minimum sentence for severe offences.

The background information provided in the petition expresses concern about sentencing for domestic abuse:

“Current penalties are too lenient and fail to reflect the severity of the crimes or the lasting trauma victims endure. Increased sentencing is necessary to properly address these heinous acts and their devastating impact on the victims. Domestic abuse victims often feel unheard, unsupported, and powerless to report their abusers due to the leniency in the current sentencing system.”

Other than calling for a review, the petition does not comment on the current definition of domestic abuse in the 2018 Act.

## Criminal offences

Part 1 of the 2018 Act created a new offence of domestic abuse against a partner or ex-partner. The aim was to help enable the effective prosecution of behaviour, taking place over a period of time, which is physically and/or psychologically abusive – including coercive and controlling behaviour. The new offence came into force on 1 April 2019.

The creation of this offence was not intended to wholly replace the use of other more general offences in the prosecution of domestic abuse (e.g. assault or threatening and abusive behaviour). Those offences are still used in conjunction with the domestic abuse aggravator provided for in section 1 of the [Abusive Behaviour and Sexual Harm \(Scotland\) Act 2016](#).

The use of a range of offences in prosecuting domestic abuse is illustrated by [information on domestic abuse and stalking charges](#) published by the Crown Office & Procurator Fiscal Service in September 2025. It includes the following data for 2024-25:

- 2,028 charges reported under the offence set out in the 2018 Act
- 26,701 charges reported under other offences coupled with the statutory domestic abuse aggravator set out in the Abusive Behaviour and Sexual Harm (Scotland) Act 2016
- the four most common offences reported with the statutory domestic abuse aggravator were – threatening and abusive behaviour (7,518); common assault (6,882); crimes against public justice (6,849); and vandalism (1,365).

## Reviews

The petition seeks a review of the definition of domestic abuse in the 2018 Act. Although not necessarily focused on that specific point, there have in recent years been several reviews of how the criminal justice system deals with domestic abuse. Relevant review reports include:

- Scottish Government – [Domestic Abuse \(Scotland\) Act 2018 Interim Reporting Requirement](#) (January 2023)<sup>1</sup>
- HM Inspectorate of Constabulary in Scotland – [Thematic Review of Domestic Abuse Phase 1](#) (January 2023)
- Criminal Justice Committee – [Post-legislative scrutiny of the Domestic Abuse \(Scotland\) Act 2018](#) (May 2023)
- HM Inspectorate of Prosecution in Scotland – [The prosecution of domestic abuse cases at sheriff summary level](#) (April 2024).

## Sentencing

The petition seeks the introduction of a minimum sentence where domestic abuse is severe. It does not say what that sentence should be.

The following highlights some areas relevant to consideration of the petition. For more general information on sentencing, see the [Scottish Sentencing Council's](#) website under the headings of '[Introduction to sentencing](#)' and '[What the law says](#)'.

### Minimum sentence

Legal requirements for minimum (or mandatory) sentences are relatively uncommon but do exist. For example, the mandatory life sentence for murder, and provision for a minimum custodial sentence of 7 years where there is a

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<sup>1</sup> A final report has not yet been published.

third conviction for certain drug trafficking offences.<sup>2</sup> The law does not currently provide for a minimum sentence for domestic abuse.

## **Maximum sentence**

It is usual for there to be limits on the maximum sentence a court can impose. For statutory offences, these are generally set out in the legislation creating those offences. For example, the maximum custodial sentence for the offence set out in section 1 of the Domestic Abuse (Scotland) Act 2018 is:

- 12 months for a conviction under summary procedure
- 14 years for a conviction under solemn procedure (on indictment)

In relation to common law offences, maximum sentencing powers are generally set by the sentencing powers of the court dealing with the offence.

## **Approach to sentencing for domestic abuse**

The Scottish Sentencing Council has published several [sentencing guidelines](#). The courts must have regard to applicable guidelines when sentencing an offender.

Existing sentencing guidelines includes one on the [principles and purposes of sentencing](#) (November 2018). In relation to the whole range of offences dealt with by the courts, it notes that the purposes of a sentence may include:

- protection of the public
- punishment
- rehabilitation of offenders
- giving the offender the opportunity to make amends
- expressing disapproval of offending behaviour.

In relation to convictions for domestic abuse, the Domestic Abuse (Scotland) Act 2018 (amending the Criminal Procedure (Scotland) Act 1995) provided that a court when sentencing an offender:

“must have particular regard to the aim of ensuring that the victim is not the subject of a further such offence committed by the convicted person”.

The Scottish Sentencing Council is currently [working on producing further sentencing guidelines in several areas](#). These include domestic abuse, in relation to which it is currently working on developing a draft guideline. A

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<sup>2</sup> In relation to drug trafficking, see [section 205B](#) of the Criminal Procedure (Scotland) Act 1995.

[Domestic Abuse Working Group Committee](#) has been established to help in taking forward this work.

The Scottish Sentencing Council has also published the following material on sentencing for domestic abuse:

- literature review – [The sentencing of offences involving domestic abuse in Scotland](#) (June 2022)
- blog – [Sentencing domestic abuse in Scotland](#) (July 2022)
- research report – [Exploring views on sentencing for domestic abuse in Scotland](#) (August 2024).

## **Sentencing data for the 2018 Act**

[Criminal proceedings data](#), published by the Scottish Government in December 2024, indicates that 763 people were convicted in 2022-23 where the main charge was the offence provided for in the 2018 Act. In relation to those convictions, the main penalty was:

- community sentence – 66%
- custodial sentence – 15%
- financial penalty – 12%
- other (e.g. admonished) – 8%.

## **Non-harassment orders**

The potential use of a non-harassment orders (NHOs) following a conviction for domestic abuse should also be highlighted. NHOs require a person to stop doing something and can be granted by the courts in the context of both criminal and civil proceedings. They seek to prevent behaviour which may cause harm or distress to another.

In relation to criminal cases generally, the prosecution can ask the court to make an NHO as part of the disposal following conviction. The Domestic Abuse (Scotland) Act 2018 (amending the Criminal Procedure (Scotland) Act 1995) made special provision for cases where a person is convicted of an offence involving domestic abuse. Where it applies:

- the court must consider whether to make an NHO without waiting for the prosecutor to ask for one
- there is what may be described as a presumption in favour of making an NHO, in that the court is directed to make one unless it concludes that the protection such an order would provide is not needed.

Also in relation to domestic abuse cases, the [Victims, Witnesses, and Justice Reform \(Scotland\) Bill](#) (as passed by the Scottish Parliament on 17

September 2025) includes a provision which would require the court to have regard to any prior bail conditions preventing an accused contacting the victim, when deciding whether to make an NHO following conviction.

## **Member's bill**

It is also worth noting that the [Prevention of Domestic Abuse \(Scotland\) Bill](#) (introduced by Pam Gosal MSP in May 2025) includes provisions which would:

- introduce notification requirements for people convicted of domestic abuse (similar to requirements already placed on sex offenders), with the aim of supporting the monitoring of offenders
- require consideration of whether a person convicted of domestic abuse is a suitable candidate to take part in rehabilitation programmes.

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9 October 2025

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](mailto:spice@parliament.scot).

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