



The Scottish Parliament
Pàrlamaid na h-Alba

CITIZEN PARTICIPATION AND PUBLIC PETITIONS COMMITTEE

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11 January 2023

Dear David,

CONSIDERATION OF PETITION [PE1887: Create an Unborn Victims of Violence Act](#)

Calling on the Scottish Parliament to urge the Scottish Government to create an Unborn Victims of Violence Act, creating a specific offence that enables courts to hand down longer sentences for perpetrators of domestic violence which causes miscarriage.

This petition was lodged by Nicola Murray in August 2021 and has been considered by the Citizen Participation and Public Petitions Committee over a number of meetings. The Committee gathered [written evidence](#) from: Scottish Government; Petitioner; Scottish Law Commission; Scottish Sentencing Council; Victim Support Scotland; the Crown Office and Procurator Fiscal Service.

Based on the information provided in the [SPICe briefing](#) and written submissions, the Committee agreed to take oral evidence from the Petitioner; Dr Mary Neal; Scottish Women's Aid; Victim Support Scotland.

Evidence

At its meeting on [29 June 2022](#), the Committee heard about the petitioner's personal experience and the changes she is calling for to hold perpetrators of domestic abuse to account where they have caused a miscarriage. A number of issues were highlighted, including the:

- Impact of the loss on the entire family.

- Knowledge, attitude and support of the Police and the need for improvement and training.
- Proportionality of the sentence.
- Need for review and enforcement of sentencing guidelines (with charges referencing aggravating factors).
- Requirement for communication with the complainer prior to any reduction in the gravity of the offence.

Following this, the Committee took evidence from stakeholders on [9 November 2022](#). Witnesses raised wider concerns about the experience of victims as they move through the justice system and shared their views on whether a new offence or statutory aggravator is required. Issues raised in evidence include:

- Systemic failures, from the collection of evidence, knowledge and approach of the Police to framing charges, scrutiny of and impact on victims, through to pressures to avoid custodial sentencing and the need to look at the whole process that influences the Crown Office.
- Adequacy of the training of the Police and the need for risk assessment to be more sensitive to coercive control.
- Differing views on the need for the law to include specific provisions dealing with domestic abuse during pregnancy.
- Existing legislation is not being implemented adequately or appropriately.
- Common law is ill equipped to deal with the issue and a new offence is required.
- Other jurisdictions across the UK have an offence of this nature.
- Need to avoid unintended/negative consequences in framing any new offence (or statutory aggravator).

The evidence gathered to date has been profoundly moving and extremely effective in bringing the Committee to a view on this issue. A number of potential solutions have been presented to the Committee during consideration of this petition.

Domestic abuse sentencing guidelines

The Committee is aware that the Scottish Sentencing Council is working to prepare a sentencing guideline on domestic abuse as part of its [business plan for 2021-24](#). The detail provided in the Council's [submission of 3 December 2021](#) informed the Committee about this ongoing work and how it relates to the three general sentencing guidelines.

The Committee now requests that the evidence gathered during consideration of the petition is taken into account as part of the Council's development of sentencing guidelines. All of the written and oral evidence can be found on the [petition's history webpage](#).

In addition to this request, the Committee has written to the Scottish Government to recommend that it:

- brings forward legislation to create a specific statutory offence or statutory aggravator for causing miscarriage through acts of domestic violence; and
- includes a review and evaluation of the effectiveness of the current legal framework in bringing forward and prosecuting charges where miscarriage is caused as part of its forthcoming report on the provisions of the Domestic Abuse (Scotland) Act 2018.

I would like to take this opportunity to thank the Scottish Sentencing Council for its engagement on this important issue to date. I am sure that you will join me in recognising the significance of this issue and the need to find an effective, compassionate and appropriate route for victims of domestic abuse to seek justice.

The [Official Report](#) of the Committee's most recent consideration of this petition is now available and a video of the meeting is [online](#).

The Committee's clerks would be grateful to receive your response, in Word format, electronically by no later than **8 February 2023**. [Written submission guidance](#) is available to assist in the preparation of your submission. Your response will be processed in accordance with the Parliament's [policy on the treatment of written evidence](#).

The Committee asks that this deadline is met to allow sufficient time for the petitioner to comment on your written response and for consideration of the petition to continue as timetabled. Should you be unable to meet the above deadline, I would be grateful if you could advise the Committee's clerks that this is the case as soon as possible.

On behalf of the Committee, thank you for your assistance.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'J Carlaw', written in a cursive style.

Jackson Carlaw MSP
Convener