

# National Care Service (Scotland) Bill (Stage 2)

Zero Tolerance for Scottish Government, 29<sup>th</sup> August 2024

## Introduction

Zero Tolerance is Scotland's expert organisation focusing on the primary prevention of men's violence against women and girls (VAWG). We tackle the root cause: gender inequality. Eradicating VAWG is essential to building a successful, inclusive, safe, well, kind and equal Scotland. Weaving gender equality into the everyday fabric of Scottish life is a central component of primary prevention of VAWG, and realising the human rights of women and girls is a key way to make gender equality a reality. We are particularly concerned with ensuring prevention efforts are inclusive of and tailored to the needs of disabled women, who face disproportionate rates of violence and abuse (Balderston, 2013; SafeLives, 2017).

## References

Balderston, S. (2013) 'Victimised again? Intersectionality and injustice in disabled women's lives after hate crime and rape' in V. P. Demos and M. T. Segal (eds.) Gendered Perspectives on Conflict and Violence: Part A Advances in Gender Research. Bradford: Emerald Group Publishing Limited, pp. 17-51.

[SafeLives. \(2017\) Disabled Survivors Too: Disabled People and Domestic Abuse.](#)

(Accessed: 6 February 2024)

## Questions

### **Question 2: What is your view of the proposal to create a National Care Service Board, and the provisions about the role and functions of the Board (see in particular new Chapter 1B of Part 1, and new schedule 2C)?**

Zero Tolerance supports the general purpose of a National Care Service Board, especially the emphasis given to continuous improvement in wellbeing of the people of Scotland. Our comments will be focused on the 12I Corporate Plan setting out who the Board intends to meaningfully involve in its decision making.

Section 12I discussing the Corporate Plan must include a human rights approach. A human rights approach is necessary to ensure that the most marginalised are directly involved in decisions which impact their lives (SHRC, n.d.). Taking a human rights approach would also help to ensure the accountability of the National Care Service in protecting the human rights of its service users. A line could be added under 12I (2) that the Corporate Plan 'must take a human rights approach' for the Board to achieve its general purpose.

Zero Tolerance welcomes the inclusion of the groups the Board will involve in decision making, as outlined in 12I (2) (b) (i-iii). However, as the proposal stands, there is an opportunity missed here to highlight the significance of gender to care in the National Care Service.

Women are disproportionately likely to be provided care by the National Care Service.

67% of social care clients aged 65 and over are women (Engender, 2021). Women are also more likely to be working in the National Care Service. Women comprise 85% of the current social care workforce in Scotland (Close the Gap, 2022). The majority of unpaid carers in Scotland are also women (Close the Gap, 2022).

Despite the gendered reality of care, the proposal for who the Board will involve in decision making is entirely gender blind. This not only obscures the reality of who is providing and receiving care but also misses an opportunity to ensure the voices of those most marginalised are involved in decision making.

The Corporate Plan should be explicitly gendered and include requirements to ensure that the most marginalised women are involved, especially disabled women. This can be achieved by first including provisions under 12I Corporate Plan (2) (b) that at least 50% of the existing group members noted are women. A further explicit point should be added to ensure that marginalised people, especially disabled women, are included in decision making. Zero Tolerance's (forthcoming) research with disabled women showed that participants felt there is limited representation of disabled people in senior decision making (p. 40). Participants also highlighted that there is limited consideration of disabled people in developing or applying policies relating to impairments. The NCS can make steps to improve this by outlining in the Corporate Plan that disabled women must be involved in decision making by the Board. This is in line with a human rights approach, ensuring meaningful participation of the most marginalised in decision making. These steps promote the Board's general purpose of continuous improvement.

## References

[Close the Gap. \(2022\) Close the Gap submission to the Health, Sport and Social Care Committee consultation on the National Care Service \(Scotland\) Bill.](#) (Accessed 7 August 2024).

[Engender. \(2021\) Engender response to Scottish Government's consultation on a National Care Service for Scotland.](#) (Accessed 7 August 2024).

[Scottish Human Rights Commission. \(n.d.\) Equality & Human Rights Impact Assessment.](#)

Zero Tolerance. (forthcoming) It's all about control.

## **Question 5: What is your view of the proposed new provisions to designate a National Chief Social Work Adviser and for the creation of a National Social Work Agency (see new section 26A)?**

In response to the new section 26A National Chief Social Work Advisor and the National Social Work Agency in the Bill.

Zero Tolerance welcomes the proposed new provisions to designate a National Chief Social Work Advisor. We especially welcome the provision that this individual is themselves a registered social worker.

Women are the majority of social workers in Scotland (Scottish Social Services Council, 2021). As it is proposed that the NCSWA will produce an annual report, in part, on the state of the social work workforce, it is essential that the NCSWA is gender competent. Gender competency must be an essential requirement of the

NCSWA role so that the gendered reality of social work is acknowledged by

Scottish Ministers.

## References

[Scottish Social Services Council. \(2021\) Scottish Social Service Sector: Report on 2020 Workforce Data.](#)

## Question 8: What is your view of the initial draft of the National Care Service Charter?

The National Care Service Charter must include more explicit reference to human rights as its foundational principles. Violence against women and girls (VAWG) is a fundamental human rights violation rooted in gender inequality and misogyny. The National Care Service must be built on human rights principles and the Charter should embed these principles more explicitly throughout. By using a human rights-based approach to frame the current contents of the Charter, service users can be empowered to know and claim their rights.

The Charter must include explicit reference to freedom from coercion, violence and abuse for all users. Violence against women and girls is all too common and is a violation of human rights. For disabled women and girls, rates of violence are even higher with research showing that disabled women are twice as likely to experience domestic abuse as non-disabled women (Balderston, 2013; SafeLives, 2017).

Disabled women and girls regularly experience violence in care settings including being given contraception without their knowledge, experiencing forced abortion or

forced sterilisation and/or being lied to about their ability to have children (Engender, 2018; SCLD, 2018; European Disability Forum, 2021).

Despite this, the initial draft of the Charter does not mention freedom from coercion, violence and abuse, other than in reference to how users of the service should treat staff. Given the prevalence of violence against women, and disabled women in particular, we believe explicit reference is needed to service users' freedom from violence as well. This would bring the Charter more in line with international human rights standards, including Article 16 of United Nations Convention on the Rights of People with Disabilities (UNCRPD) and the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) (EHRC, 2010).

Zero Tolerance proposes including a paragraph in the 'Equality, Dignity and Respect' section to demonstrate the impact of misogynistic and ableist stereotypes on disabled women interacting with support services. Stigma and negative attitudes towards disabled people, especially disabled women, are all too common in our society and act as a direct barrier to disabled people receiving the care they need (Scope, 2018). Given the prevalence of misogyny and ableism, the National Care Service Charter should challenge this narrative by explicitly highlighting misogyny and ableism as a barrier to equal access. This reflects the ambitions of Article 5 of CEDAW, a connection the Charter should highlight.

## References

Balderston, S. (2013) 'Victimised again? Intersectionality and injustice in disabled women's lives after hate crime and rape' in V. P. Demos and M. T. Segal (eds) Gendered Perspectives on Conflict and Violence: Part A Advances in Gender Research (Bradford: Emerald Group Publishing Limited).

[Engender. \(2018\) Our bodies, our rights: Identifying and removing barriers to disabled women's reproductive rights in Scotland.](#) (Accessed 6 February 2024).

[Equality and Human Rights Commission. \(2010\) The United Nations Convention on the Rights of People with Disabilities - What does it mean for you?](#)

[European Disability Forum. \(2021\) Ending Forced Sterilisation of Women and Girls with Disabilities.](#) (Accessed 6 February 2024).

[SafeLives. \(2017\) Disabled Survivors Too: Disabled People and Domestic Abuse.](#) (Accessed 6 February 2024).

[Scope. \(2018\) The Disability Perception Gap.](#) (Accessed 6 February 2024).

Scottish Commission for Learning Disability. (2018) Safe and Healthy Relationships: [Empowering & Supporting People with Learning Disabilities through Education.](#) (Accessed 6 February 2024).

## **Question 9: Do you have any other comments on the Scottish Government's proposed draft Stage 2 amendments to the National Care Service Bill?**

It is beyond the remit of Zero Tolerance to comment on all aspects proposed in draft Stage 2. However, we would like to echo earlier submissions by our sister organisations Engender (2021) and Close the Gap (2022). Care is fundamentally gendered, and gender should be mainstreamed in the creation of the National Care Service from the very beginning. It is concerning that the National Care Service Bill, as it currently stands, is entirely gender blind. As we have stated, women make up the majority of those receiving care, the majority of the social care workforce, and the majority of unpaid carers (Engender, 2021). What is being proposed does not reflect this reality. The establishment of a National Care Service based on human rights has the potential to end gender inequality in care. However, this opportunity is currently being missed. As we have stated, it is essential that the most marginalised women, especially disabled women, are involved in the decision making of the National Care Service. Disabled women, particularly those with learning disabilities, are routinely ignored in relation to how their care is provided (Wiseman and Ferrie, 2020). Disabled women participants in Zero Tolerance's (forthcoming) research reflected how there is limited representation of disabled people at senior decision-making level.

Participants also highlighted that there is limited consideration of disabled people in developing or applying policies relating to impairments. The NCS can take steps to

improve this by ensuring the draft Bill outlines that disabled women must be included in meaningful decision making with the National Care Service Board.

There is currently little reference to human rights and the need for a human rights approach in the Bill. If the National Care Service is to achieve its general principles, equalities and human rights must be embedded and mainstreamed throughout the policy process. Human rights principles must be embedded from the outset with explicit reference to how a human rights approach will be used cemented in key documentation. The Scottish Government has committed to incorporating international human rights law in Scots Law. The development of key institutions like the National Care Service must have human rights and gender equality at its heart. We would like to provide additional comment on the Charter. Under Independent Advocacy, the Charter should include explicit reference to how victim-survivors of abuse are often not believed (Hague et al., 2011). Research with women with learning disabilities showed the pain these women experienced by being ignored and silenced by people they thought should be 'on their side', like support staff and family members (Wiseman and Ferrie, 2020). It can be difficult for victim-survivors to challenge their abusers, especially when the abuser is also their carer. This is due to power imbalances and societal beliefs that carers of disabled people are 'altruistic, kind or saintly' (Ballan and Freyer, 2012; Harpur and Douglas, 2014). This can cloud judgement about these relationships, lead to disbelief of disclosure, or questions such as 'who will look after you?' (Hague et al., 2011; Breckenridge, 2018). Even when victim-survivors do speak out, often nothing is done. Independent advocates should therefore be trauma informed and gender competent – able to

challenge misogynistic and ableist narratives that silence victim survivors. This requirement should be reflected in the Charter, with reference given to Article 12 of UNCRPD.

## References

Ballan, M. S. and Freyer, M. B. (2012). Self-Defense Among Women With Disabilities: An Unexplored Domain in Domestic Violence Cases. *Violence Against Women*, 18, (9), pp. 1083-1107.

Breckenridge, J. P. (2018). The relationship between disability and domestic abuse. In N. Lombard (ed.), *The Routledge Handbook of Gender and Violence*. (Routledge, London) pp. 133-144.

[Close the Gap. \(2022\) Close the Gap submission to the Health, Sport and Social Care Committee consultation on the National Care Service \(Scotland\) Bill.](#)

(Accessed 7 August 2024).

[Engender. \(2021\) Engender response to Scottish Government's consultation on a National Care Service for Scotland.](#)

(Accessed 7 August 2024).

Hague, G., Thiara, R. and Mullender, A. (2011) Disabled women, domestic violence and social care: The risk of isolation, vulnerability and neglect. *British Journal of Social Work*, 41(1), pp. 148–165.

Harpur, P. and Douglas, H. (2014) Disability and domestic violence: protecting survivors' human rights. *Griffith Law Review*, 23:3, pp. 405-433.



Wiseman, P. and Ferrie, J. (2020) Reproductive (in)justice and inequality in the lives of women with intellectual disabilities in Scotland. *Scandinavian Journal of Disability Research*, 22(1), 318–329.

Zero Tolerance (forthcoming) It's all about control.

## **For Further Information**

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## **About Us**

Zero Tolerance is a Scottish charity working to end men's violence against women by tackling its root cause: gender inequality.