

**SUBMISSION TO THE UNITED NATIONS' COMMITTEE
ON THE CONVENTION ON THE ELIMINATION OF ALL
FORMS OF DISCRIMINATION AGAINST WOMEN**

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SUBMITTED BY THE UNITED KINGDOM WOMEN'S NATIONAL COMMISSION

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EXECUTIVE SUMMARY

This Report has been prepared by the Women's National Commission, the United Kingdom (UK) Government's independent advisory body on women, in consultation with women's non-Governmental organisations (NGOs) across the UK. A list of contributing organisations is attached at Annex 1. An extract from this Executive Summary and the Introduction to the Report has been submitted separately to the CEDAW Committee as a list of critical issues. The Report gives comments on the whole range of inequalities which face women in the UK, and where opinions are divided, that diversity is reflected. We welcome the Government's many initiatives to address these inequalities, however, there are a number of critical issues on which the UK women's organisations would like to see greater progress. These are:

- 1. that the government implement a UK-wide, overarching strategy on gender equality, to inform the Gender Equality Duty incorporating targets on all the critical areas for action in the Beijing Platform for Action***
- 2. that the Government implement a long term, integrated strategy on violence against women, that includes prevention work, with clear targets, funding, and evaluation***
- 3. that the Equality and Human Rights Commission be resourced to give a focus to women's equality, alongside the other equalities strands, and to ensure that gender is mainstreamed and that all Government departments routinely conduct Gender Impact Assessments when developing policy***
- 4. that all women who are subjected to domestic violence or abuse and immigration control should be exempt from the restriction on public funds (NRPF rule)***
- 5. that compulsory Personal, Health and Social Education (PHSE), that includes both Sex and Relationships Education and that covers issues of equality and human rights, start in primary schools for both girls and boys, and is a statutory subject in the curriculum in all secondary schools***
- 6. that the Government impose mandatory pay audits for all organisations as a step towards ending the pay gap***
- 7. that the supply of good quality and affordable childcare facilities be extended to meet the demand***

ARTICLE 1 – ELIMINATION OF DISCRIMINATION

1. The UK Government has failed to implement effective equality legislation pertaining to a number of gender equality related issues; the definition of discrimination as laid out in the Sex Discrimination Act 1975 (SDA) is narrower than that required by CEDAW; the definitions of indirect discrimination in the SDA do not cover indirect gender reassignment discrimination; the definition of harassment, including sexual harassment, as laid out in the SDA is narrower than that which CEDAW requires; the definition of pregnancy-related discrimination in the SDA is insufficient; the SDA does not address intersectional discrimination, as required by CEDAW; the Equal Pay Act 1970 does not address indirect discrimination in terms at all and is only interpreted to cover indirect discrimination, leading to inconsistencies with EU law and CEDAW and; the UK has not complied with its obligations under the EU Gender Goods and Services Directive to implement legislation to ensure the principle of equal treatment between men and women in the access to and supply of goods and services.

ARTICLE 2 - OBLIGATIONS TO ELIMINATE DISCRIMINATION

Gender Equality Duty

2. The women's sector warmly welcomes the Gender Equality Duty (GED). The GED came into force in April 2007 and requires all public authorities to promote gender equality and eliminate sex discrimination, and rather than depending on individuals to make complaints, places the legal responsibility on public authorities to demonstrate that they treat men and women fairly. The duty affects policy making, public services such as transport, employment practices such as recruitment and flexible working and also applies to charities, voluntary and private sector organisations that provide a public service. However, there are varying levels of understanding among public bodies about what gender inequality is and no common understanding of the issues, therefore some public bodies have had difficulties in setting objectives; the Government did not run a campaign raising awareness and there is no overarching Gender Equality Strategy in the UK to underpin the Duty. We welcome the new Gender Equality Strategy for Northern Ireland, but have concerns over resources, and the delay in the passing of a Single Equality Act for Northern Ireland.

The WNC recommends:

- *that the government implement a UK-wide, overarching strategy on gender equality, to inform the Gender Equality Duty incorporating targets on all the critical areas for action in the Beijing Platform for Action*

Violence against women and girls

3. There is no national strategy to tackle violence against women. The UK has not responded to the UN Secretary-General's Study of Violence against Children.

The WNC recommends:

- *that the Government implement a long term, integrated strategy on violence against women, that includes prevention work, with clear targets, funding, and evaluation*

Women accused or convicted of criminal offences

4. Women are 5.5% of the prison population and 17% of those arrested for recorded criminal offences; but between 1993 and 2003 there has been an increase of 191% within the female population in comparison to 46% for the males. 36.3% of the female prison population is made

up of ethnic minority women. Between 1994 and 2004, there was a 115% increase in the number of women remanded into custody, compared to a 20% increase for men. These increases result from harsher sentencing, and disproportionately affect women with mental health problems or who are socially excluded. Damage to families is exacerbated because there are no women's jails in Wales so many women have to serve their sentences in England, away from their children.

5. The number of girls aged 15–17 sent to adult jails has trebled over the last decade, although recorded crime among this group has fallen. Young women prisoners account for 12% of the total female prison population and 5.3% of the total young prisoner's population. The UK High Court has ruled that sending girls to adult prisons is unlawful; it also violates Article 37(c) of the UN Convention on the Rights of the Child, which the UK has reserved its right not to implement.

ARTICLE 3 — THE DEVELOPMENT AND ADVANCEMENT OF WOMEN

The Equality and Human Rights Commission (EHRC)

6. Replacing separate commissions for gender, disability and race, the EHRC came into being in October 2007. This Commission has responsibility for the independent oversight of gender, race, disability, sexual orientation, age and religion and belief in Britain, as well as for the promotion of human rights; women are worried about the priority gender equality will be given. Moreover, legislation to harmonise various rights of different disadvantaged groups – women, ethnic minorities, the disabled, etc – has been deferred until well after the EHRC begins work, making the advantages of a single body much harder to realise. The level of Equal Opportunities Commission (EOC) activity recorded in the 6th Report (paragraph 81) will not be sustainable. The EHRC is committed to working across strands, with no specific focus on gender. There is a serious problem of under-funding of the second and third tier women's organisations that represent women's equality issues to the EHRC and to Government. The Government must ensure that organisations that are at the forefront of tackling discrimination are adequately supported and sustained.
7. The fullest possible gender mainstreaming is essential. The new Gender Equality Duty requires all public authorities, including central Government departments, to conduct Gender Impact Assessments (GIAs) on all new and existing policies and practices. This should result in an improved understanding of the impact of policies on women and men, girls and boys. Experience of the similar race duty is, however, that such assessments are not systematically conducted across Government, and Government departments will have to take active steps to ensure the new processes become a routine part of mainstream policy development and formulation. The overwhelming majority of civil servants receive no training whatsoever on gender mainstreaming and most would not recognise the term.

The WNC recommends:

- ***that the Equality and Human Rights Commission be resourced to give a focus to women's equality, alongside the other equalities strands, and to ensure that gender is mainstreamed and that all Government departments routinely conduct Gender Impact Assessments when developing policy***

Trade

8. In recognition of the lack of routine mainstreaming of gender analysis into trade policy, the Government set up a Gender Expert Group on Trade within the DTI to enable consultation with experts in NGOs and academia. However, this was shut down in Spring 2007 without consultation. Particular issues for women globally include a regulatory framework that offers

security; access to food and basic services are a prerequisite. Women need to be involved within the WTO at every level of decision-making and both women and men in WTO need training in gender mainstreaming. Gender disaggregated data needs to be collected and analysed to provide gender impact assessments of the impact of trade on women and men separately. Measures are needed to protect women from the short-term dislocation caused by trade liberalisation.

ARTICLE 4 — TEMPORARY SPECIAL MEASURES TO ACHIEVE EQUALITY

9. We welcome the law permitting political parties to take positive action. In 2005, the number of women MPs rose to 19.8%. The main three political parties undertook some measures, e.g. extra training for women, only the Labour Party used positive action in all-women shortlists in some seats. After the 2005 election, women constituted 27.5 % of Labour MPs, 16.1 % of Liberal Democrats MPs and 8.6 % of Conservative MPs. More than temporary measures are needed. Political parties in Northern Ireland have not focused on legally permitted positive action measures to attain gender balance.

ARTICLE 5 — SEX ROLES AND STEREOTYPING

Women in the media

10. Women's portrayal in the media is highly stereotyped and sexualised. This disempowers women and promotes the notion that men are entitled to women and their bodies. Such representations contribute to tolerance of male violence against women. Internet pornography promotes sexual violence and exploits those girls and women pictured. There is also a lack of positive, visible role models of ethnic and minority women, older women, disabled women or openly gay women in the media.
11. Men's magazines have contributed to the increasing normalisation of pornographic ethics in society and promoted sexual violence into the mainstream; pornographers referenced in young men's magazines claim that 'most women fantasise about rape', and 'date rape' and incest are visually joked about. This mainstreaming of the violence ethic that is embedded in much of pornographic culture is inevitable where there has been no regulation of the porn industry and no meaningful regulation of the mass media, particularly the press.
12. All forms of media in the UK, including advertising, are self-regulated and not subject to any specific statutory controls on their content or activities.
13. The media continue to shape women's behaviour and rights. Following an intense media focus on women binge-drinking and stories of 'she got drunk and cried rape', 30% of a cross-section of the public surveyed believed that a woman who drinks at all is at least partly responsible if she is raped.

Forced marriage

14. The Government's Forced Marriage Unit has improved the response to British nationals forced into marriage overseas, and produced guidelines for the police, education, social and health services. We very much welcome this; however, it requires a comprehensive evaluation and monitoring framework. The guidelines should be extended to include housing and other services.

Female Genital Mutilation

15. Women who have undergone female genital mutilation (FGM) can rarely access adequate sexual healthcare, as few gynaecology specialists are trained in treating conditions caused or exacerbated by FGM. Comprehensive training and guidance is needed if this practice is to be

abandoned by the communities that practice it. There is a lack of information on the prevalence of FGM and no strategy to implement or monitor the law, and no prosecutions since FGM was banned in 1985.

ARTICLE 6 — EXPLOITATION OF WOMEN

Trafficking of women and girls

16. The UK has not fully implemented its commitments under the UN Convention Against Transnational Organised Crime and its Optional Protocol. The definition of trafficking in UK law needs to be widened beyond prostitution and domestic service to conform to the definition in the Protocol. There is very little protection available apart from the 35 bed spaces provided within the safe houses of the Home Office's Poppy Project which provides support and housing to women who have been trafficked into the sex trade. This is wholly inadequate against the 4,000 trafficked women the 6th Report says are in the UK at any one time (paragraph 569).

Women in prostitution

17. Women working in the sex industry lack protection and find it hard to access rights or services. There are an estimated 80,000 people involved in prostitution in the UK. As many as 85% of those involved in prostitution report physical abuse in the family and as many as 70% spent time in care. Up to three out of four women involved in prostitution began when they were aged 21 or younger. Once involved, women are at further risk of experiencing gender-based inequalities ranging from violence and rape to institutional gender discrimination in the criminal justice system. There are insufficient sexual health services to meet the needs of these women. The laws on prostitution are fragmented, confusing, and ineffective, and a comprehensive review of the law is urgently needed before more legislation is passed.

Women in 'adult entertainment'

18. Table-dancing and lap-dancing clubs have flourished over the last four years in many areas. Research shows that where lap-dancing clubs exist, incidences of violence against women in the vicinity increase. Current licensing rules are inadequate.

ARTICLE 7 — POLITICAL AND PUBLIC LIFE

Public appointments

19. Women hold only 35.5% of public appointments; less than 2% are BME women. The positions women do hold are usually junior, unpaid posts rather than senior paid ones.

Political life

20. The UK is ranked in 47th place out of 184 countries in the Inter-Parliamentary Union's table of women in Parliament. At the current rate of change, it will take Labour around 20 years to get to 50-50 women and men, the Liberal Democrats around 40 years and the Conservatives around 400. Prejudice within local selection committees is often cited as being a main reason for the low number of women MPs - 41% of parliamentary candidates said that selection committees in their parties look more favourably on male candidates. Just over a quarter of local authority councillors are women and only 2% of local councillors are BME women.

21. Devolution has largely benefited women's participation and influence at parliamentary level. 39% of the Scottish Parliament are women, however women still only account for 18.8% of local councillors. The Welsh Assembly has 47% women members and three women Ministers out of seven. However, in Northern Ireland, of the 108 members elected to the Assembly in 2007, only 18% are women and 21.5% of local government councillors elected in 2005 are women. Given

the relevance of 1325, it is disappointing the number of women has not increased in the recent Assembly elections.

ARTICLE 8 — WOMEN AS INTERNATIONAL REPRESENTATIVES

Conflict prevention and resolution

22. There are few women in senior positions in conflict resolution and peace-keeping, particularly in Afghanistan and Iraq. Gender adviser posts in UN teams and in post-conflict situations are often left unfilled. 1325 is not given the same priority as other UN resolutions, in particular in the adoption of measures to include women in democratic governments. Despite their skill and experience, women in Northern Ireland are consistently absent as contributors to peace-building and post-conflict initiatives.

ARTICLE 9 — NATIONALITY

Asylum, nationality and immigration

23. In 2004, there was a welcome reform in the immigration rules where victims whose relationships break down due to domestic violence within the two-year probationary period, following marriage to a British or settled partner, have the right to remain permanently in the UK. However, the Government has limited the full effectiveness of this reform by refusing to allow victims access to public funds, preventing many from leaving abusive situations. This means that women of unsettled immigration status are not allowed access to public funds (the ‘no recourse to public funds requirement’ or ‘NRPF’), which denies victims access to public housing and social security benefits.

The WNC recommends:

- ***that all women who are subjected to domestic violence or abuse and immigration control should be exempt from the restriction on public funds (NRPF rule)***

ARTICLE 10 — EDUCATION

24. Schools do not have the capacity to teach gender issues, nor do they give it priority in training. Personal, Health and Social Education (PHSE) is not a statutory subject and ignores equal opportunities; violence against women (including domestic violence), and UN instruments such as CEDAW.

25. The UK has no equivalent to Title IX, which the US adopted to ensure that schools’ expenditure on sport benefits girls and boys equally, so the gender impact of spending is not monitored. There is overwhelming evidence that most funding in the UK goes on boys’ sports.

26. Young lesbian, bisexual, and transgender girls, feel socially isolated at school. Just over half of schools have reported homophobic bullying in the last term; but only 6% had policies to address homophobic bullying.

27. The Gender Duty became law in April 2007 and every school was required to produce an action plan for implementation by 30th April 2007, however this has not happened. Guidance had only recently become available and planning for training was severely delayed. This would have a major impact in schools on the promotion of awareness of gender stereotyping.

28. Clear and detailed information on comparative rates of pay across all occupations should be made available for all secondary education pupils, parents and teachers. This would help to reduce the gender pay gap by bringing more women into careers like engineering and construction where it is possible to earn more money. Specific careers advice is needed for BME girls who will experience particular obstacles in the workforce in relation to race and gender.

The WNC recommends:

- *that compulsory Personal, Health and Social Education (PHSE), that includes both Sex and Relationships Education and that covers issues of equality and human rights, start in primary schools for both girls and boys, and is a statutory subject in the curriculum in all secondary schools*

ARTICLE 11 — EMPLOYMENT

Employment

29. Minority ethnic, disabled, lesbian, bisexual and transgender women are highly disadvantaged in the labour market. Employment rates are lowest for Pakistani and Bangladeshi women at 22% and 18% respectively, compared to 66% for white British women. Black Caribbean women are twice as likely to be unemployed as white British women. BME graduates experience far more unemployment than white graduates. Two-thirds of lesbians and gay men surveyed reported workplace discrimination including dismissal, physical and sexual assault, ridicule and verbal abuse.
30. The progress on women's representation at senior levels across a wide range of sectors and professions is painfully slow and in some cases has gone into reverse. For example, women represent only 10% of directors at FTSE 100 companies, 21% of local authority Chief Executives and 10% of senior judges.
31. The points-based system for labour migrants indirectly favours men over women due to the extra points scored for age and earning power.
32. Although it is unlawful, 30,000 women each year lose their jobs because of their pregnancy. Only 3% of those who experience a problem lodge a claim at an employment tribunal. Nearly 25% of women who made an employment tribunal claim had been dismissed within hours of telling their employer about their pregnancy and one in five women returning from maternity leave were given lower grade jobs.
33. Employment law makes no provisions for class actions, so each woman has to lodge proceedings individually. If she wins, the employer cannot apply that decision to other women workers who have not come forth with legal proceedings.
34. High levels of violence against women, particularly domestic violence, impact on women's employment: in 2003, 21% of victims took time off work, while 2% lost their jobs. The cost of lost of economic output due to domestic violence against women in England and Wales alone is £23 billion a year.
35. A 1999 survey found that 27% of people had been sexually harassed at work. A recent report showed that disabled people were five times more likely to experience sexual harassment at work.

36. In the armed forces, 99% of the servicewomen surveyed had been witness to sexualised behaviours (jokes, stories, language and material) in the last 12 months.

Equal pay

37. The gender pay gap in the UK is one of the highest in Europe. Women who work full time still earn only 83% of men's wages, and just 61.5% of men's part-time hourly pay. Reasons include poor pay progression, occupational segregation, a lack of flexible work and affordable childcare and poor quality part-time work where women working part-time earn 30% less than those working full-time. Women earn less on average, even when they have the same class of degree in the same subject as men, earning 15% less than men who have the same qualifications within five years of graduation. In the private sector, men working full-time earn 23% more an hour than their female counterparts and 45% more than women working part time.
38. Mandatory equal pay audits are needed, plus measures to increase men's work-life balance and tackle the long hours working culture, which stops women with caring responsibilities competing equally with male colleagues.

The WNC recommends:

- ***that the Government impose mandatory pay audits for all organisations as a step towards ending the pay gap***

Work- life balance and childcare

39. The national childcare strategy is a great leap forward, but there are 3.8 children under 8 for each childcare place in England. The typical cost of a full-time nursery place for a child under two is £152 a week in England, a rise of 6% on last year. Parents report a lack of affordable childcare in their area; in England in 2006 there were 195.5 day care places per 1,000 children aged 0-4, compared with 92.5 places per 1,000 children aged 0-4 in Northern Ireland in 2005.
40. We very much welcome the extension made in April 2007 to Statutory Maternity Pay (SMP), which is now payable for 39 weeks. However, after the first six weeks, SMP is paid at a flat rate of £112.75 per week, which is less than the minimum wage at 35 hours per week. We also welcome improved parental leave entitlements, where fathers now have a right to two weeks statutory paid leave and the option to take up the last three months of maternity leave provision. However, while men continue to be paid more than women it makes little sense for the father to take this leave.
41. 17% of working women in the UK do not earn enough to pay National Insurance compared to 4% of men, and are therefore not entitled to certain benefits, such as the State pension. Caring responsibilities mean women are more likely to have an interrupted National Insurance record.

The WNC recommends:

- ***that the supply of good quality and affordable childcare facilities be extended to meet the demand***

Pensions

42. Two thirds of pensioners are women, and their average income is 53% of men's. For every pound of income received by men in a pensioner couple, women receive less than 32 pence. Currently around 30% of women reaching state pension age are entitled to a full basic pension as compared to 85% of men. Only 38% of women of working age are paying into private pensions,

against 46% of men. Female single pensioners are one of the poorest groups of the older population - one in five live in poverty and 75% of pensioners receiving income related welfare payments are women.

ARTICLE 12 — WOMEN’S HEALTH

Teenage pregnancy and sex education

43. Rates of teenage pregnancy in the UK remain the highest in Western Europe. Since the beginning of the Teenage Pregnancy Strategy, the rate of under-18 conceptions in England has reduced by 11.8% which we welcome.

Sex and Relationships education

44. Sex and Relationship Education (SRE) is still not mandatory in primary schools; only some aspects are mandatory in secondary schools. The quality and provision of SRE remains extremely variable.

Sexual and reproductive health

45. There is a lack of investment and priority for sexual health services, with 89% of clinicians reporting increased patient activity, yet only 3% reporting an increase in levels of staffing. Financial cuts have led to services being cut despite increasing demand. The number of people seeking help at Genito-Urinary Medicine clinics is greater than staff can deal with.

46. Contraceptive services within the NHS are also suffering cuts and closures. In particular, there are concerns about the number of community contraceptive clinics being closed.

47. Health services linked to sexual violence and forensic evidence require further attention. In areas of the UK without Sexual Assault Referral Centres (SARCs), female forensic medical examiners are still not available in a timely manner to assist women who have been raped or sexually assaulted. There are no national guidelines for forensic medical examination.

48. Despite a poll showing a majority of women are pro-choice, there has been a sustained anti-choice campaign in the UK to make abortion illegal, and attempts in Parliament to reduce the upper time limit of 24 weeks and impose mandatory cooling-off periods. Although there is a suggestion that opinion is also against abortion in Northern Ireland, there is no hard evidence to support this as no in-depth public consultation or survey has been carried out. A Judicial Review has ruled that the law on access to abortion is unclear.

Maternity services

49. Rates of infant mortality, perinatal mortality and maternal deaths remain among the highest in the EU. There are significant inequalities in maternal and child health outcomes.

Lesbian, Bisexual, and Transgender women

50. There is a lack of information on lesbian and bisexual women’s health needs. Lesbian patients have reported hostility, judgement and poor treatment when they disclose their sexual orientation to their doctor. Sexual health services for lesbians are inadequate. The majority of transgender people identify as women, but find it hard to access appropriate, sympathetic and expert health care. There is a shortage of specialist psychiatrists working on gender reassignment.

Disabled and learning disabled women

51. Access to verbal or written information for women with disabilities and learning difficulties is difficult. Their health needs, particularly their sexual and reproductive health and rights are often

regarded as unimportant. The Government's strategy for learning disabled people, *Valuing People*, lacks a gender analysis.

Black and minority ethnic women (BME)

52. Despite London becoming more diverse, with populations of up to 70% BME in parts, women who have experienced violence find gaining access to culturally appropriate health and social care services problematic. Some minority ethnic women have concerns that GPs from within their communities cannot be trusted to maintain patient confidentiality on issues such as domestic violence and sexuality.

Travelling women

53. Traveller women suffer a disproportionately high number of miscarriages, stillbirths, neo-natal and perinatal deaths and have the highest maternal death rate among all ethnic groups. It is estimated that, on average, Travelling women live 12 years less than women in the general population.

Mental health

54. Twice as many women than men suffer from depressive illness: BME women suffer higher rates again. Institutional racism and a lack of culturally appropriate services may be some of the causes. Young South Asian women are three times more likely to kill themselves than other women. Asylum seeking women are at particular risk as many suffer from post-war traumatic stress, and language barriers exacerbate this situation. Duties under the Mental Health Act 2005 are not being fulfilled for asylum seeking women in detention. The Government's strategy, *Women's Mental Health: Into the Mainstream* is a welcome step forward and represents one of the few examples of gender mainstreaming of public policy. However, it ignores the needs of key groups of women: lesbians, disabled women, transgender, and BME women. Health services for women in prison are wholly inadequate; around 70% have mental health problems. Most women in secure hospitals have a history of physical and sexual abuse, but security of detention is prioritised over treatment.

Cancer Screening

55. The UK has one of the highest mortality rates in Europe for breast cancer. Women over 70 have the highest rates; screening should include this group automatically. Services should be better publicised to improve take up, including among disabled women, women whose first language is not English, and women from Travelling communities. BME women have much lower levels of knowledge about breast cancer symptoms and risk factors: 32% said they did not know much; 45% of BME women of screening age (50 to 70 years) had never attended the free screening programme.

ARTICLE 13 — SOCIAL AND ECONOMIC BENEFITS

56. It is difficult to assess the extent of women's social exclusion, poverty and access to resources, without systematic gender-impact assessments, particularly of the UK Budget. Government statistics should be routinely gender-disaggregated. The Government's economic indicators should include, for example, the value of unpaid work. It is estimated to add a value of between 44% and 104% of GDP, and is largely undertaken by women, but is excluded from Government calculations. The Government must routinely produce a gender impact assessment of its budget and its economic and social policies. The 6th report admits this is not done (paragraph 241).

Lone parents

57. There are 1.9 million lone parents with dependent children in the UK. 3.1 million children live in lone parent families; 91% are headed by women. 41% live on gross incomes of £200 a week or less, compared with 8% of married couples with children. Ethnic minority women tend to be clustered in a narrow range of workplaces, jobs, sectors and local labour markets which reduces their pay and promotion opportunities.

Housing

58. Due to their lower economic status, women are disadvantaged in accessing housing and face high rents, deposits and rent guarantees. Private landlords are unwilling to accept tenants who are on Housing Benefits, due to delays and administrative problems with the system. A key cause of women's homelessness is domestic violence.

59. Homeless women are particularly isolated and cut off from services and assistance. Research shows that whilst 60% of homeless women have slept rough, only 12% had engaged with street outreach teams.

ARTICLE 14 — RURAL WOMEN

60. Rural women face poor access to education, transport, health and child care services employment and training. Women are more reliant on public transport than men. Women in rural areas also face inequalities in accessing health services, especially in gender based services such as maternity services or domestic abuse support services. Lack of anonymity in rural communities can stop young women accessing help on sexual health and contraceptive needs, illicit drug use, alcohol abuse, self-harm and domestic violence, for fear of their families and friends finding out. The closure of rural post offices is an example of the barriers that rural, especially older, residents face.

61. Young people in rural areas face significant barriers to employment and in accessing post-16 education. Young women in rural areas are more likely to be paid below the national average wage in their first job.

62. There is a lack of suitable services for women in the Travelling community and BME women, lesbians and transgender women in rural areas. Women in the Travelling community suffer from frequent evictions, as the number of sites where they may legally park is reduced.

63. Rural women suffering domestic violence, rape and sexual assault face particular problems due to isolation. The new policy of dispersing asylum-seeking women to rural areas prevents them from accessing appropriate and culturally sensitive services.

ARTICLE 15 — EQUALITY BEFORE THE LAW AND CIVIL MATTERS

Access to justice

64. Changes to legal aid have had a major impact on vulnerable women, and is especially dangerous where women are experiencing domestic violence. Applications granted for legal aid in England and Wales dropped from 279,000 in 1998 to only 156,164 in 2005–6. The number of non-molestation orders granted to women suffering domestic violence dropped to 17,340 in 2005, compared with 32,781 in 1993.

Women in the judiciary and criminal justice system

65. Two thirds of Crown Prosecution Service staff are women; however they are clustered at the lower levels. Women represent 10% of High Court Judges, 11% of Circuit Judges, 14% of Recorders, one fifth of District Judges, and around half of Magistrates. There is only one woman judge out of 12 in the House of Lords, the highest court in the country, and there are no ethnic minority women judges in the House of Lords or Court of Appeal.

Rape and sexual assault

66. Approximately 80,000 women suffer rape and attempted rape every year in the UK. In 2007, only 1 in 8 (12%) of reported rape cases reached trial and only 5.7% ended in conviction- one of the lowest conviction rates for rape in Europe. There is massive under-reporting of sexual offences.

67. Half of women in England and Wales experience domestic violence, sexual assault or stalking. With the exception of Sexual Assault Referral Centres (SARCs), there has been little investment at national and local levels into rape and sexual assault and adult survivors of child sexual abuse.

68. Research on the investigation and prosecution of sexual violence cases suggests that adversarial legal systems are especially poor at delivering justice to victims.

69. Funding for local rape crisis services are minimal and many support groups have closed since 2002. Rape Crisis Centres provide tailored services for all women – ethnic minority, trafficked, married, lesbian, disabled, transgender, women involved in prostitution, rural, children and adult survivors of childhood abuse. We are extremely concerned about the loss of funding and call for no more closures.

70. SARCs provide high quality forensic medical examination services and crisis counselling, but they are crisis centres, not a replacement for long-term support. Not all SARCs are women-only services, and many new SARCs do not provide the services suggested in the Government minimum standards: courtroom support, helplines and pro-active follow-up. There were 62,081 reported sexual offences in England and Wales in 2005/06, but still no crucially-needed national sexual violence helpline. A pilot helpline for adults who experienced childhood abuse received over 600 calls per week, of which they are able to answer around 60.

71. The heavy focus on reducing repeat victimisation and the attrition rates hides the bigger problem of the vast number, 85% of women and girls nationally, who do not report to the police.

ARTICLE 16 — EQUALITY IN MARRIAGE AND FAMILY LAW

Domestic violence

72. 1 in 4 women in England and Wales and 1 in 5 women in Northern Ireland have experienced domestic violence, a crime that has the highest rate of repeat victimisation of all violent crime. In 2007, domestic violence accounted for 16% of all reported and recorded violent crime. Between 2000 and 2001, 42% of female homicide victims were killed by a partner or former partner in England and Wales. It is estimated that between 50-60% of women mental health service-users have experienced domestic violence.

Child contact in cases involving domestic violence

73. Child contact applications and proceedings present a significant loophole through which stalking, harassment and violence by former partners continue. The ongoing abuse of children not only discriminates against women and children in their ability to re-establish their lives following

separation, but also places them at significant risk of further violence and of being killed, post separation. We welcome guidelines issued on good practice of parental contact in cases of domestic violence. However, there remain areas of concern: children must be placed at the centre of the process: their wishes and fears must be obtained and a thorough assessment of the impact of domestic violence carried out by a competent child-focused professional.

74. Contact is refused in less than 1% of cases; but the Children and Family Court Advisory and Support Service says allegations of domestic violence are involved in about 60% of cases.

SUBMISSION TO THE UNITED NATIONS' COMMITTEE ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

From the Women's National Commission of the United Kingdom

This Report is primarily a commentary on the UK 6th Periodic Report. Separate comments have been made on the responses to questions raised by the UN CEDAW Committee following their previous examination of the Periodic Report; these comments are shown in italics and are a summary of the views of women's organisations across the UK. Specific recommendations for action follow at the end of each Article.

INTRODUCTION

1. There is a strong measure of consensus among women working on equality in the UK that the Government has made a great deal of progress since the last examination in 1999, often working in consultation with women's organisations. This must be remembered, and applauded, in the context of a report which necessarily has its main focus on the critical issues that remain to be addressed, which are as follows.
2. The disparity in income between women and men, which is rooted in continuing gender inequality, is of great concern. Women's poverty persists over their lifetime, and is reflected in one of the largest gender pay gaps in Western Europe, and in the poverty they suffer in old age, when their income is only 53% of a man's. It is exacerbated by the lack of affordable childcare and eldercare, which impacts most on women. These women who often choose to look after their children, sick and/or elderly relatives in their own homes are effectively overlooked. They are not registered as unemployed nor as workers, are omitted from government statistics and build up no pension rights. Yet the economic and social value of the work that they do is undeniable. Violence against women is of critical concern: it is both a cause and a consequence of women's inequality, and almost half of women in England and Wales experience a serious form of violence during their lifetime. The UK performs poorly in international league tables of women in parliament, despite the fact that in the Welsh Assembly elections in 2003, 30 women Assembly Members were elected, giving a 50/50 representation, the only legislature in the world to achieve this. Women are still under-represented in high level decision-making roles, particularly in business and in the media. Women in minority groups – ethnic minority; disabled, older and lesbian women all suffer a double burden of discrimination. Progress could be better directed and evaluated if an action plan or strategy for women in the UK were developed, to pull together all the initiatives and set clear targets to work towards.
3. This report gives the comments of women's NGOs on the UK Government's 6th Report. In particular, these cover the recommendations made by the CEDAW Committee in its last examination of the UK, as follows:
 - a. The Committee commended the Government's commitment to gender mainstreaming of policy development, but recommended rigorous evaluation and assessment. *This commitment has not been implemented; the 6th Report lists only a series of small scale initiatives that have not been systematically evaluated. The overwhelming majority of civil servants at UK level have received no training in the process and would not recognise the term. There is no systematic programme of training or effective mechanisms of accountability. Awareness of the new obligation requiring all legislation and policy to be assessed for its compliance with the Gender Equality Duty is in its infancy. Official*

machinery to promote and co-ordinate women's equality has been subsumed under generic bodies since the last report: the Equal Opportunities Commission is being closed down and its work included in that of a new Commission on Equality and Human Rights (EHRC); the Cabinet Committee on Women has been terminated, and the work is now included in the Committee on Communities, along with a range of other issues (paragraph 11) .

- b. The Committee was concerned that, following devolution, protection of women's rights would be uneven. This fear has proved correct. The 6th report gives a wealth of examples of different rights, policies and practice across the UK with no unified plan of action for women in the UK which would co-ordinate and inform gender equality work.*
- c. The Committee recommended that the UK set strategies for increasing women's representation in public life, including mentoring, networking and a review of qualifications. There is no wider strategy, nor are adequate resources allocated to Government departments to meet the objective of increasing the number of women in politics or public life; as a result, these have largely stagnated since the last report.*
- d. The Committee noted the continuing disadvantage of black and minority ethnic women and called for specific positive action. No such strategy has been developed; the 6th Report lists a large number of small scale initiatives and one off events, and black and ethnic minority women continue to be disadvantaged. Some policies, such as the 'no recourse' rule (paragraph 80), impact more on them.*
- e. The Committee made specific recommendations on the pay gap. Little progress has been made. The pay gap remains at 17.2% on average per hour.*
- f. The Committee made recommendations on teenage pregnancy and sexually transmitted infections, on the introduction of sex education into the primary school curriculum, and called on Government to initiate a process of public consultation in Northern Ireland on reform of the abortion law. Sex education has not been included as statutory in the primary school curriculum (see paragraph 150), nor has any in depth public consultation or survey been carried out on abortion (see paragraph 162).*
- g. The Committee called for a national strategy on violence against women. Although the Government has launched a variety of valuable initiatives over the years, notably in the criminal justice system, these do not amount to a unified and multifaceted strategy of targets set, resourced, monitored and evaluated across Government; there is no Cabinet Committee that coordinates work on VAW (see paragraph 218). The Making the Grade report, an annual audit by the women's sector of the structural underpinning of Government's work on VAW, gives detailed evidence of the lack of coordination.*
- h. The Committee was concerned about the criminal justice system. The situation has become worse: by 2007, only 1 in 8 (12%) of reported rape cases reached trial and only 5.7% ended in conviction. This is one of the lowest conviction rates for rape in Europe. There is massive under-reporting of sexual offences. The average number of women in prison between 1993 and 2003 increased by 191% (see paragraph 2).*

- i. The Committee called for urgent action on a range of issues for older women, including pensions. *However, just 30% of women retiring now get a full basic state pension, compared with 85% of men.*
- j. The Committee called for their comments to be widely disseminated in the UK and to civil servants. *Very few civil servants or members of the general public have even heard of CEDAW; fewer still have seen the Committee's comments. There is no ongoing process for implementing CEDAW within Government between calls every four years to contribute to the report.*

Summary of Key Recommendations

- ***that the government implement a UK-wide, overarching strategy on gender equality, to inform the Gender Equality Duty incorporating targets on all the critical areas for action in the Beijing Platform for Action***
- ***that the Government implement a long term, integrated strategy on violence against women, that includes prevention work, with clear targets, funding, and evaluation***
- ***that the Equality and Human Rights Commission be resourced to give a focus to women's equality, alongside the other equalities strands, and to ensure that gender is mainstreamed and that all Government departments routinely conduct Gender Impact Assessments when developing policy***
- ***that all women who are subjected to domestic violence or abuse and immigration control should be exempt from the restriction on public funds (NRPF rule)***
- ***that compulsory Personal, Health and Social Education (PHSE), that includes both Sex and Relationships Education and that covers issues of equality and human rights, start in primary schools for both girls and boys, and is a statutory subject in the curriculum in all secondary schools***
- ***that the Government impose mandatory pay audits for all organisations as a step towards ending the pay gap***
- ***that the supply of good quality and affordable childcare facilities be extended to meet the demand***

ARTICLE 1 – ELIMINATION OF DISCRIMINATION

The following information draws upon a technical report prepared for the purposes of this report. This can be found in full at *ANNEX 2*.

CEDAW Definition of Discrimination

4. CEDAW defines discrimination, as follows: “For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.” (Article 1)
5. In UK law, both direct and indirect (whether intentional or unintentional) sex discrimination are outlawed by the Sex Discrimination Act 1975 (SDA).

Direct discrimination

6. *Direct discrimination* is defined by the SDA as when a person discriminates against a woman if— (a) on the ground of her sex he treats her less favourably than he treats or would treat a man...’
7. This is a narrower definition of discrimination than that required by Article 1 of CEDAW. Article 1 addresses “any distinction, exclusion or restriction made on the basis of sex”. The SDA requires, however, that the treatment be on “ground of *her* sex” i.e. the victim’s sex. This means that less favourable treatment of a person because of another’s sex or because of perceived sex (a person is believed to be of a particular sex, even if they are not in reality) is *not covered by the* SDA concept of discrimination but is covered by CEDAW.
8. EU law requires, like CEDAW, that this wider form of direct discrimination is outlawed (See Article 2(2) of the Equal Treatment Directive (ETD) 76/207/EEC, as amended by Directive 2002/73/EU: “direct discrimination: where one person is treated less favourably on grounds of sex than another is, has been or would be treated in a comparable situation.” (The Directive refers to CEDAW in its Recitals (see Recital 2)) The Government has not amended the SDA, however, to give effect to this requirement.

Indirect discrimination

9. *Indirect sex discrimination* consists of treatment which may be equal in a formal sense as between the sexes but is in practice discriminatory in its effect on one sex.
10. The SDA defines two forms of indirect discrimination which are probably adequate to meet the requirements of CEDAW. However, the definitions of indirect discrimination do *not* cover indirect gender reassignment discrimination which is a form of sex discrimination and should therefore be regulated by the SDA.

Contractual benefits

11. Contractual benefits (pay etc) are covered by the Equal Pay Act 1970 (EPA). The EPA does not address indirect discrimination in terms at all. To give effect to EU law it has been interpreted to cover indirect discrimination. However, recent domestic case law holds that there is no obligation on an employer to legally *justify* indirect discrimination if he shows that any difference in pay or adverse impact is not discriminatory, in the sense of being attributable to a difference of gender. Only then, according to the case law, is it necessary for the employer to

show objective justification. This is so notwithstanding that for indirect discrimination it is precisely the fact that a particular practice has disparate impact on women, irrespective of whether the practice itself is deliberately attributable to gender, that needs to be justified. This approach is inconsistent with EU law and CEDAW (which is concerned with ‘effects’) and means (unless the case law is overturned) that employers do not need to objectively justify practices which have the effect of disadvantaging women, unless it is shown that any consequent difference in pay is attributable to sex.

Harassment

12. Harassment is a form of discrimination. The SDA outlaws harassment, including sexual harassment. However, the definition used is narrower than EU law and that which CEDAW requires, because for ‘harassment’ (as opposed to explicit forms of sexual harassment) the treatment must be *on the grounds* of the victim’s sex and not as *related to* the sex of a person, as defined by the ETD. The definition of harassment in the SDA is not, therefore, compliant with EU law and, despite a ruling by the High Court, the Government has not introduced correcting legislation.
13. Further, the broader meaning of harassment in the ETD, is such as to cover some incidents of third party harassment – that is, where the harassment is done by someone other than the person caught by the unlawful acts. The Directive requires that a broader meaning of harassment is adopted so as to cover some incidents of third party harassment and, despite a ruling by the High Court, the Government has not introduced correcting legislation.

Pregnancy

14. The SDA defines pregnancy-related discrimination as occurring where “on the ground of the woman’s pregnancy, the person treats her less favourably than he would treat her had she not become pregnant” (section 3A). This requirement for a comparator in a pregnancy discrimination case is contrary to EU law. The ETD requires that Member States outlaw ‘less favourable treatment of a woman *related to* pregnancy or maternity leave’ (Article 2(7)). The High Court has ruled that the approach in the SDA to pregnancy discrimination is contrary to EU law because of the requirement for a comparator. Despite this ruling of the High Court, the Government has not introduced correcting legislation.

Intersectional Discrimination

15. UK anti-discrimination law does not address intersectional forms of discrimination. The SDA addresses sex discrimination only and where the experience of discrimination distinctly derives from the experience of the intersection of two or more certain characteristics (e.g. as in the experience of certain ethnic minority women in certain areas; older women; disabled women etc), the legislation will not address it. CEDAW recognises intersectional discrimination and requires it to be addressed. The UK does not, therefore, give proper effect to CEDAW in defining gender related discrimination as occurring only where the treatment is related to sex alone.

Goods and Services Directive

16. The Sex Discrimination Act 1975 (Amendment) Regulations 2007 were laid before Parliament on 28 November 2007 purportedly to give effect to the Gender Goods and Services Directive 2004/113/EC (of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services) in Great Britain. These regulations, amongst other things, contained the same flawed definition of harassment as described above and which were found not to comply with the Directive. The Government withdrew these regulations shortly before Christmas, before they were enacted. This means that

the UK has not complied with its obligations under the Directive to implement legislation by 21 December 2007. The Directive again refers in terms to CEDAW in its Recitals (see Recital 2).

The WNC recommends:

- *that the Government address the existing deficiencies in equality law in the Single Equality Bill, including provision to address all forms of multiple and intersectional discrimination*

ARTICLE 2 – OBLIGATIONS TO ELIMINATE DISCRIMINATION

Gender Equality Duty

17. We welcome the introduction of the groundbreaking Gender Equality Duty (GED) in April 2007, requiring all public authorities to promote gender equality and eliminate sex discrimination by, rather than depending on individuals to make complaints, placing the legal responsibility on public authorities to demonstrate that they treat women and men fairly. It covers policy-making, public services such as transport, employment practices such as recruitment and flexible working and also applies to charities, voluntary organisations (including women’s community groups) and private sector organisations that are providing a public function. Key to its success is leadership, and the extent to which central Government departments and inspectorate bodies take a lead on the issue will determine its efficacy in the wider public sector. While some public bodies and central Government departments have shown strong leadership, commitment at the highest levels remains inconsistent. Central Government departments must take a greater role in encouraging action under the Duty; particularly by ensuring public bodies under their remit give priority to national gender equality issues. Understanding among public bodies about gender inequality varies, and with no common understanding of the issues, some bodies have had difficulties in setting objectives; this is partly because the Government did not run an awareness-raising campaign, but mainly because there is no overarching Gender Equality Strategy in the UK. There was little consistency in how public bodies consulted on their schemes; some were keen to comply fully with the law and ensure gender equality is mainstreamed into all their functions, and where others had a very poor consultation process and as a result produced very poor schemes. Some are not aware of their legal obligations, e.g. to publish a Gender Equality Scheme (GES); some Government departments published schemes that did not cover all of the required functions. Some forward-thinking public bodies, like the Crown Prosecution Service (CPS), have published Single Equality Schemes which integrate all their duties, others have published separate schemes that do not recognise the crossover between issues, for example, the relevance of the Race Equality Duty in addressing violence against ethnic minority women. Violence against women has never really been part of the mainstream equality agenda, so many public bodies and Government departments do not understand it as an equality issue that should be included in their GES. The Government has disseminated little information on the GED to key groups such as girls. It is paramount that the Government recognise the importance of gender research and statistics as tools in educating and informing key groups. For example, a Gender Audit of Statistics commissioned by Scottish Executive provides vital evidence and information relevant to implementation of the GED¹. Further, faith groups are not covered by the GED unless they are providing a public service, so gender discrimination within religious institutions goes unchecked.

18. Lobby groups can and should use the Duty as a tool to force public bodies to consider the way their policies affect women. When this is done effectively, public bodies may be forced to change their policies.

¹ A Gender Audit of Statistics: Comparing the position of men and women in Scotland, Government Social Research – Research Findings No 31/2007

The WNC recommends:

- *that the government implement a UK-wide, overarching strategy on gender equality, to inform the Gender Equality Duty incorporating targets on all the critical areas for action in the Beijing Platform for Action*
- *that the Government ensure that all public bodies train their staff on the GED, including on their legal obligation to publish a GES and on the need to include violence against women in their GES*
- *that all central Government departments actively ensure the implementation of the GED by all public bodies under their remit*
- *that the Government disseminate information to key groups about the GED*

Violence against women

19. The Government has failed adequately to implement recommendations made by the *End Violence Against Women Campaign* (EVAW) for an integrated approach to violence against women and the need to fund services offering integrated approaches. We commend the model of an interdepartmental group of officials working across Government on domestic violence. However, co-ordination at the ministerial level is more limited, with three separate Inter-ministerial Groups on domestic violence, sexual offences and trafficking, and no Cabinet Committee overseeing the separate action plans. There is a very limited resource within the Government Equalities Office to support this work. We would also like to recognise and give our support to the *End Violence Against Women Campaign's* Shadow Thematic Report on Violence Against Women. This report highlights the continuing need for the UK Government to tackle this vital area if they are to make any progress towards gender equality and eliminating all forms of discrimination against women.

20. In 2006, EVAW published *Making the Grade*, its second annual independent analysis of Government initiatives by departments on violence against women. It is of great concern that the average overall total score for central Government was just under 2.5 out of 10. Although we welcome the establishment of the Home Office Interpersonal Violence Unit (IPV) and the CPS violence against women strategy, it is of concern that the absence of performance indicators will make monitoring, evaluation and measurement of success problematic. However, it is encouraging that violence against women is cited as being one of the priority areas for action in the new Gender Equality Strategy.

Women accused or convicted of criminal offences

21. Women make up of 5.5% of the prison population and 17% of those arrested for recorded criminal offences². However, due to harsher sentencing, there has been a steady increase in the women's prison population: between 1993 and 2003, it grew by 191%, compared to a 46% increase for the male population.³ More than a third of women in prison have no previous conviction, double the figure for men. Almost two-thirds of women entering custody are on remand; almost a fifth of the female prison population is on remand. Between 1994 and 2004, there was a 115% increase in the number of women remanded into custody, compared to a 20% increase for men⁴.

22. Most women who are sent to prison go for less than a year, and for non-violent offences. Compared to men, women commit less crime and their offences are generally less serious⁵ - over half of offences committed are minor and the perpetrators "were not a threat to others, but simply

² Corston, J (2007) *The Corston Report: a review of women with particular vulnerabilities in the criminal justice system*. The Home Office.

³ Rickford, D. (2003) *Troubled Inside: Responding to the Mental Health Needs of Women in Prison*. Prison Reform Trust: London.

⁴ www.crimeinfo.org.uk

⁵ www.hmprisonservice.gov.uk/adviceandsupport/prison_life/femaleprisoners

petty criminals who were trapped in the 'revolving door' cycle of crime".⁶ The most common offence for which women are imprisoned is theft and stolen goods. Female prisoners have experienced disproportionately high levels of disadvantage, victimisation and poverty. Over half of women in prison have experienced domestic violence and one in three has experienced sexual abuse, many of them as children.⁷

23. 38% of women prisoners questioned said they were expecting to be homeless on release and 31% who were in owned or rented property before custody lost it while they were in prison.⁸ The loss of a home often results in the loss of possessions. When a woman is evicted while she is in prison, her possessions are typically thrown away. Housing is the single biggest issue for women prisoners on release. The educational achievement of women prisoners is lower even than for male prisoners. 74% left school at 16 or before. Only 39% have any qualifications at all, compared to 82% of the general population.⁹
24. Women prisoners are more likely than males to have a serious mental illness; around 70% of women in prison have mental health problems,¹⁰ and they often do not receive the drug or mental health treatment needed. Around 30% of women in prison self-harm, compared to 6% of men.¹¹ 37% of women sent to prison have previously attempted suicide, compared to 20% of men in prison.¹² Women seek greater help from the medical services than men; some 20% of women prisoners ask to see a doctor or nurse each day, almost twice as many as male prisoners.
25. 65% of women released in 2002, were re-convicted within two years, compared to 38% ten years ago. This is now a similar rate to men. Criminal justice policies designed to deal with men not only fail women, but have serious consequences for their dependants. 66% of women prisoners are mothers and due to the small number of women prisons, they are often jailed at considerable distances from their homes, making retaining crucial links with family more difficult.¹³ Each year more than 17,700 children are separated from their mothers by imprisonment and only 5% of prisoners' children remain in their home once their mother has been sentenced to custody.¹⁴ Baroness Jean Corston's report describes the impact on children of their mother's imprisonment as "*catastrophic*"¹⁵. In Wales, custodial sentences for (largely poverty-related) offences have more than doubled between 1996 and 2000. The negative impact on families is exacerbated as there are no women's jails in Wales meaning many women have to serve their sentences in England. Women's prisons should be smaller and distributed around the country so that women prisoners are nearer their families. Only dangerous and violent women should be imprisoned; others should be dealt with by community sentences in order that children are not taken into care.
26. The National Offender Management Service must address the overuse of prison by developing strong provision for women in the community with access to a range of services including mental health services, housing advice, childcare and education and skills training. In 2005, £9.15 million in funding for pilot community initiatives specifically for women offenders, to be released over a four year period, was announced by the Home Office¹⁶. However, the initiatives are limited to two areas and this pot of money is relatively very small. The evidence on the need for specialist, women-centred community services that work to reform and rehabilitate both ex-

⁶Bad Girls? Women, Mental Health and Crime., Revolving Doors Agency: London, 2004

⁷ Corston, J (2007) op cit

⁸ Resettlement Outcomes on Release from Prison in 2003, Home Office, 2005

⁹ Women in Prison www.womeninprison.org.uk, 2007

¹⁰ Fawcett Society www.fawcettsociety.org.uk (2007)

¹¹ Five Suicides Attempts a Day at Holloway, The Guardian, 09/08/2004

¹² Fawcett Society (2003) Op cit

¹³ Corston, J (2007) Op cit

¹⁴ *ibid*

¹⁵ *ibid*

¹⁶ <http://www.homeoffice.gov.uk/documents/worp-annual-review-0405?view=Binary>

offenders and vulnerable women at risk of offending is overwhelming. Baroness Corston's report recommends the roll-out of a network of women's centres, which can provide the needed services, as well as supervising community sentences. The Asha Centre in Worcester and the Calderdale Women's Centre are examples of similar models that have had good results.

27. 36.3% of women in prison are from ethnic minorities.¹⁷ Foreign national women account for the largest proportionate rise in the prison population in the last five years and represent 20% of the women in prison, compared to about 11% of the male population.¹⁸ Almost half are Jamaican women convicted of drug offences; most are single parents and first-time offenders. There is substantial evidence of coercion, against a background of violent, abusive, and exploitative relationships and poverty.¹⁹ Drug 'mules' are usually victims, and should not be imprisoned. As women's prisons are critically over-crowded, support services for these women are limited and the NGO sector is attempting to fill the gap in provision.
28. The number of girls aged 15–17 sent to adult jails has trebled over the last decade, although recorded crime among this group has fallen every year over the same period. Young women prisoners account for 12% of the total female prison population and 5.3% of the total young prisoner's population²⁰. Young female prisoners have very specific care and custody needs. The UK High Court has ruled that sending girls to adult prisons is unlawful; it also violates Article 37(c) of the UN Convention on the Rights of the Child, which the UK has reserved its right not to implement.
29. We very much welcome the Government's recent response to the recommendations made in the Corston report²¹. In particular we welcome the Government's stated commitment to establish a new cross-departmental unit within the Ministry of Justice, headed by a senior civil servant, to coordinate and monitor work on taking forward Baroness Corston's recommendations. We also welcome the Government's stated commitment, amongst others, to ensure that custody is only used for those women who really need it and to maximise the use of community orders and supportive interventions and services. However, the Government has not fully endorsed all the recommendations of the Corston report. For example, they have not stated a full commitment to announce a clear strategy to replace existing women's prisons with suitable, geographically dispersed, small, multi-functional custodial centres to be rolled out within ten years, one of Baroness Corston's key recommendations. Further, they have declined to commit to the establishment of a new Inter-Ministerial Group (IMG) on Women at Risk of Offending and have instead stated that the existing IMG on Reducing Re-offending will take onboard work on issues of women at risk of offending. They have not stated how the IMG on Reducing Re-offending will be adequately resourced to extent its remit to work on women at risk of offending.

The WNC recommends:

- ***that the criminal justice system prioritise and implement the Gender Equality Duty and radically transform the way it delivers services for women***
- ***that the use of custodial sentences is limited to women who have committed serious violent offences***

¹⁷ Ibid (2007)

¹⁸ *A Bitter Pill to Swallow: The Sentencing of Foreign National Drug Couriers*, Rethinking Crime and Punishment: London, 2003

¹⁹ Ibid

²⁰ *Supra* note 2

²¹ *The Government's response to the Report by Baroness Corston of a Review of Women with Particular Vulnerabilities in the Criminal Justice System*, Ministry of Justice, December 2007.

- *that the Government establish an Inter-Department Ministerial Group for women ‘at risk’ of offending*
- *that the Government, as a matter of urgency, take steps to reform the UK criminal justice system to make it more appropriate for dealing with women offenders of minority ethnic backgrounds in the light of their special needs*
- *that the Government adopts all the recommendations from the Corston Report*
- *that the Government removes the specific barriers that women who are at risk of social exclusion face and ensure that all women have equal life opportunities to access services and achieve their full potential*

Non Government Organisations

30. Women’s organisations want assurances more generally on resources; currently there is a serious problem of under-funding of women’s second and third tier organisations and also of the Women’s National Commission, the only existing state body for the UK wholly dedicated to women. Out of the other discrimination strands to be covered by the new EHRC, only disability brings with it a similar NGO-based organisation and representative voice (Equality 2025). It is vitally important to women in the UK that the WNC is retained and strengthened. It can speak for all women – including those who may be disabled, come from an ethnic minority and whatever their age, religion and belief or sexual orientation. Its work enables women’s NGO’s to have a direct line to Government and also to contribute to international instruments such as CEDAW, the Commission on the Status of Women (CSW) and UN Security Council Resolution 1325. We would also like to highlight and give our support to the Women’s Resource Centre’s ‘*State of Sector*’ Shadow report²² which details how vital the Women’s Sector is to gender equality. The Sector currently faces a devastating funding crisis which, without Government intervention, risks losing services vital to the elimination of discrimination against women.
31. Funding and support for frontline BME women’s organisations providing specialist services for BME victims of gender-based violence remain under-resourced and are increasingly under threat of closure due to greater pressure for small organisations to merge into larger organisations, and/or to provide generic, gender-neutral services. It is vital that the Government ensures that local authority commissioning frameworks take into account the specialist needs of BME women experiencing abuse and that small, specialist providers that have built up an invaluable wealth of local knowledge and understanding on the particular issues BME women face are not cut, lost or subsumed into mainstream non-specialist organisations. There is a need for sustained long-term core funding for specialist provision for BME women and for improvements of service standards in relation to these and other service providers.
32. In their report ‘Global Issues – Local Voices’²³ Fatima Women’s Network highlights the serious gap in knowledge of women’s organisations on international instruments and agencies. The Government needs to recognise that funding to support capacity building, in this area, is critical if UK women’s organisations, and the women they represent, are to participate effectively on a global level.
33. In May 2004, Lesbian and Gay Employment Rights (LAGER) was forced to close due to its funding being cut. LAGER was a specialist organisation and the only one of its kind, representing lesbians and gay men for over 20 years and its closure impacted on lesbian and bisexual women’s ability to access skilled and affordable representation to challenge discriminating employers. The Maternity Rights Alliance was also forced to close in 2006 due to

²² *State of the Sector*, The Women’s Resource Centre, 2008

²³ *Global Issues – Local Voices: How NGO’s Working with Women Use International Instruments and Agencies*, Fatima Women’s Network, 2008

funding problems. Some of its advice work was taken over by the charity ‘Working Families’ but it is suffering from similar funding difficulties. The Government must ensure that organisations at the forefront of tackling discrimination are adequately supported and sustained.

The WNC recommends:

- *that the Women’s National Commission is strengthened to continue its work with full access to Ministers and all departments of Government*
- *that the Government endorse the importance of specialised services for BAMER women*
- *that the Government ensure NGOs working at the forefront of tackling discrimination against women are adequately supported and sustained*

Race and Disability Equality Duties

34. The gender equality duty complements a race duty introduced in 2000 and a disability duty introduced in 2005. The impact of these earlier duties has been limited, with a low level of awareness in public bodies. Neither Race nor Disability Impact Assessments consider the needs of women, and operate in a gender-insensitive way. Only a few forward thinking parts of Government, such as the CPS and the Ministry of Justice, have developed single equality schemes which do attempt to join the issues together. This helps both the officials tasked with implementation and women who experience multiple discrimination.

Disabled and learning disabled women

35. The Government has made strides in seeking to ensure disability, including learning disability, is mainstreamed across government by establishing the Office of Disability Issues located in the department of Work and Pensions with a specific remit to work across government and with relevant departments. Departments must report to the specifically established Ministerial group on disability and this too is to be welcomed. A stakeholder forum - Equality 2025 - has been set up for consultation but this is made up of *individuals* with disabilities and no groups or collective views are represented there. Nor is there any policy or effort to ensure representation of women or their groups. The Government is also working on the reduction of hate crimes against disabled people but, again, there is no specific attention paid in this policy to gender differences or gender needs.

36. We welcome the Government’s strategy for learning disabled people, *Valuing People Now*²⁴. However, it is lamentably lacking in a gender dimension. It is hoped that important steps being taken to have departments for education, employment, health, housing, social security and so on working together will produce real gains for people who have complex and multiple needs. However, it will fail to do so if it does not address the specific needs of women and girls.

Migrant women

37. The UK is seeking to harmonise its anti-discrimination laws. However, despite the representations of a number of NGOs and other bodies, the Discrimination Law Review explicitly excluded discriminatory immigration law from the terms of its review. Visible minorities disproportionately originate from the non-EEA countries targeted by immigration law including the Points Based System (PBS).

Violence against girls

38. In a typical English city with a child population of 100,000, in the past year at least 38,000 under the age of 13 years will have been hit, beaten, slapped or smacked by their parents; 11,000 will

²⁴ *Valuing People Now*, Department of Health, 2001

have been sexually assaulted; 3,500 will have been subject to severe corporal punishment; one-third will have been bullied at school, and one child will have been murdered²⁵. The Government's zero tolerance of violence has yet to reach children. The law still allows parents to hit them, there is no national strategy to reduce child homicides and other violence, and the Government's definition of domestic violence deliberately excludes them. The UK has not responded to the UN Secretary-General's Study of Violence against Children, 2006. In 2004, the Government supported legislation that allows parents to justify common assault on their children as "reasonable punishment" (Section 58, Children Act 2004). On this, the Government resisted campaigning by an alliance of over 400 organisations, including all the major children's organisations and the Women's Aid Federation of England, and refused to allow its members of Parliament a free (conscience) vote on an alternative proposal that would have satisfied the UK's human rights obligations by removing the defence completely, to give children full legal protection from being hit.

The WNC recommends:

- *that the Government withdraw its Reservation on the implementation of Article 37(c) of the UN Convention on the Rights of the Child*
- *that the Government develop a national strategy to end all forms of violence against children, acting on all the recommendations made in the United Nations Study on Violence Against Children, including gender-based violence against girls*
- *that the Government repeal section 58 of the Children Act 2004 and introduce full legal protection from all forms of violence for UK children*

Devolution

39. We welcome the publication of the Gender Equality Strategy for Northern Ireland in December 2006. However, resources allocated across departments are not adequate to deliver the strategy. We are also concerned at the continuing delay in the passing of a Single Equality Act for Northern Ireland. The Specific Duties on gender for Scotland are stronger than in England and Wales; Scottish public authorities are also required to produce an equal pay statement.

ARTICLE 3 — THE DEVELOPMENT AND ADVANCEMENT OF WOMEN

40. The Government must give its fullest support to its national and international obligations to ensure equality between women and men.
41. The fullest possible gender mainstreaming is essential. The new Gender Equality Duty requires all public authorities, including central Government departments, to conduct Gender Impact Assessments (GIAs) on all new and existing policies and practices. This should result in an improved understanding of the impact of policies on women and men, girls and boys. Experience of the similar race duty is, however, that such assessments are not systematically conducted across Government, and Government departments will have to take active steps to ensure the new processes become a routine part of mainstream policy development and formulation. This will include improving the gender analysis skills of its own policy staff and improving the disaggregation and use of statistics by gender. The overwhelming majority of civil servants receive no training whatsoever on gender mainstreaming and most would not recognise the term. There have been a series of initiatives, such as that taken by the Treasury and the Department of Trade and Industry (DTI) to conduct a pilot project on the gender analysis of Government expenditure. The DTI and Department for Work and Pensions each analysed a

²⁵ "You feel like you're nothing": ending violence against children in England, Children's Rights Alliance for England and NSPCC, 2007

programme in their department. The results were published²⁶, but have not been widely disseminated. The UK Government's 6th Report to CEDAW lists other examples of gender analysis expenditure pilot projects, but it is clear that they do not represent a systematic approach to gender mainstreaming. The fact that these are isolated examples demonstrates how far the UK is from mainstreaming, which requires a comprehensive approach including regular consultation with stakeholders such as women's organisations.

The WNC recommends:

- ***that the Government take active steps to ensure that all Government departments routinely conduct GIAs when developing policy and that they provide adequate guidelines to policy staff in order that GIAs are carried out effectively***
- ***that the government institutionalise gender analysis of expenditure as a regular part of the development of expenditure plans and the evaluation of their results***

State Equality Machinery

42. Equality work, especially on gender, is not prioritised within Government. The Women and Equality Unit, which until its recent replacement with the Government Equalities Office, took the lead on gender in central Government, has spent significant resources in the last few years setting up the new Equality and Human Rights Commission (EHRC), which has reduced significantly its work on women's equality. The Cabinet Committee on Women was abolished several years ago and replaced with a Committee on Equality. More recently this was itself closed down and its remit subsumed within the Cabinet Committee on Communities. All this has gradually diluted the focus on co-ordinating work on women's equality and has proved a retrograde step. The Gender Public Service Agreement (PSA), containing targets for Government on gender equality, was a very useful and innovative lever, but it is itself about to be replaced by a generic equalities PSA, again diluting the focus on gender. Disappointingly, the 6th Report notes that there are Departments that have been unable to sign up to deliverable targets on this issue (paragraph 227).
43. Replacing separate commissions for gender, disability and race, the EHRC came into being in October 2007. This Commission has responsibility for the independent oversight of gender, race, disability, sexual orientation, age and religion and belief in Britain, as well as for the promotion of human rights. Staff are not allocated to work on a specific area of equality. In the women's sector many are concerned about the dilution of gender equality within the body; others feel that the EHRC is well positioned to address the complexity of women's experience as it intersects with other issues such as disability, age, ethnicity and religion/belief and also to address gender equality from a broader human rights perspective.
44. A Disability Committee has been set up and a Disability Commissioner appointed, but despite lobbying the same has not been done for women or gender equality. Additionally, the EHRC remit covers equality, good relations and human rights. However, on good relations, the 'Commission shall have particular regard to the importance of exercising the powers conferred by this Part in relation to groups defined by reference to race, religion or belief.' (Equality Act, 10(4))^[1]. Although we have received assurances from the Commission that the Equality Act is not restricted to these equality strands and that discussions in the Commission to date have already started to factor in the important role that women play in fostering good relations, we are concerned that this statutory priority means the EHRC will not prioritise good relations in

²⁶ www.womenandequalityunit.gov.uk/research.index.htm

relation to gender, for example, in the way that violence against women prevents social cohesion and good relations.

45. We are pleased to note that the EHRC has established a twelve strong Stakeholder Management and Parliamentary team. However, we would like assurances that this team has established effective mechanisms for working in partnership with and consulting the women's voluntary sector. As the EHRC is committed to working on cross-strand themes, the Equal Opportunities Commission's programme of work on gender, recorded in the 6th report, such as their enquiry into sex discrimination in the Ministry of Defence, will not be sustained. Women require assurances on all of the concerns outlined above and that the allocation of resources within the EHRC will reflect the importance of the need to address all areas of gender inequality.
46. The Equal Opportunities Commission (EOC), the main state agency tackling sex discrimination in Britain, ceased to exist when its functions were taken over by the EHRC in October 2007. The EOC produced a 'Gender Agenda' to pass on to the EHRC; this argues that although society has changed dramatically in the last 30 years, and traditional roles like "breadwinner dad" and "homemaker mum" are increasingly things of the past, policies, services, workplaces and institutions have not caught up. This perpetuates gender inequalities. The Agenda addresses five key themes in a ten year plan for gender equality: **income** – pay and pension gaps; **family** – 'work life balance' and the division of caring, domestic work and resources; **policies and services** – to reflect the changed reality of women's and men's lives and women's differing needs; **justice and safety** – equality of access, improve the Criminal Justice System and eradicate domestic and sexual violence as a priority; and **society** – a more equal power division between women and men. The EHRC took on board the Gender Agenda when it started work in October 2007 and has staff working across the Commission, in the Strategy, Communication and the Legal Directorates, on the issues mentioned above - pay and pensions, work life balance (where the Commission is also actively involved in EU policy in this area), and the caring agenda, which is addressed not only from an equality perspective, but increasingly from an important human rights angle.
47. We very much welcome the establishment of the new Government Equalities Office (GEO), following the changes in government machinery and Ministers in July 2007. Formally established in October 2007, the GEO takes on responsibility for the Government's overall strategy and priorities on equality issues and strengthens the Government's ability to deliver across the entire equalities agenda. This includes taking on responsibility for the Discrimination Law Review, the Single Equality Bill, and the Equality PSA; sponsorship of the Equality and Human Rights Commission and the Women's National Commission; and the response to Trevor Phillips' Equalities Review. It will also be responsible for policy on gender equality, including the Minister for Women's priorities, and for integrating work on race and religion or belief equality into the overall equality framework. The establishment of this department marks the first time a ministry has been dedicated solely to equalities work. The GEO will enable cross-cutting work between departments such as the DWP and DCLG, providing a golden opportunity to drive for a strong integrated strategy on equalities and bringing about greater coherence in all equalities work.

The WNC recommends:

- *that the EHRC must be resourced to give a focus to women's equality, alongside the other equalities strands, and to ensure gender is mainstreamed*

- *that official statistics be routinely disaggregated by gender*
- *that Government should ensure that service providers are given gender-awareness training in order to develop gender-sensitive policies and services*

Trade

48. We are seriously concerned at the continuing lack of gender analysis in trade policy. This is another example of the absence of gender mainstreaming. Particular issues for women globally include a regulatory framework that offers security — access to food and basic services are a prerequisite. Women need to be involved within the World Trade Organisation (WTO) at every level of decision-making. The UK Government’s consultation on the European Union’s (EU) Directive on Services in the Internal Market did not consider gender and was not circulated to women’s NGOs for advice. Another adverse effect will be the transfer of work across the globe to areas where cheap labour is available. This has already been seen in the UK clothing, manufacturing and call centre industries where many women have lost jobs. Measures to protect women from the short-term dislocation caused by trade liberalisation needs to be implemented. We welcomed the Government’s initiative in setting up a Gender Expert Group on Trade within the DTI to enable consultation with experts in NGOs and academia. However, at the time of writing, this group has been summarily disbanded with no consultation whatsoever. We deplore this high-handed and precipitate decision undermining the UK’s good record of involvement with NGOs, especially women’s organisations.

The WNC recommends:

- *that the Government ensure trade policy is gender mainstreamed*
- *that the Government reinstate the Gender Expert Group on Trade*

ARTICLE 4 — TEMPORARY SPECIAL MEASURES TO ACHIEVE EQUALITY

49. The UK Government does not set time-bound targets, or quotas, to promote gender balance in political parties, Government departments and local Government bodies. The Labour Party is the only major UK party that is using the temporary permissive powers in the Sex Discrimination (Election Candidates) Act 2002 to redress the gender imbalance in their selection of candidates (see Article 7).

50. We welcome proposals in Wales to address the chronic gender deficit in Unitary Authorities (women councillors make up 21% and senior officials 10%), though entrenched patriarchal attitudes in some areas are hostile to their implementation.

The WNC recommends:

- *that the Government actively encourage all political parties to take measures to rectify the imbalance between men and women among candidates presented for election*

ARTICLE 5 — SEX ROLES AND STEREOTYPING

Women in the media

51. The media has a huge influence on the way people perceive gender and sexuality, and the way women are portrayed in the media is highly stereotyped and extremely sexualised. The mass media repeatedly promotes and condones the belief that a women’s worth is judged by her external appearance, and that this judgement should ultimately come from men. This disempowers women, whilst enforcing the notion that men are entitled to women and their bodies. Such representations contribute to tolerance of male violence against women. This

gendered portrayal extends into the music and fashion industries. The increase and accessibility of internet pornography not only serves to justify sexual violence but also exploits those girls and women pictured and acting as models. There is also a lack of positive images of ethnic and minority women, and a lack of older women, disabled women or openly gay women in the media. Negative stereotypes, particularly of Muslim women, are reinforced by the media, which in turn are connected to discrimination and harassment and serves to silence women.

52. All forms of media in the UK, including advertising, are *self-regulated* and are not subject to any specific statutory controls on their content or activities. The press ostensibly regulates itself through the Press Complaints Commission (PCC) - an independent, non-statutory body that is responsible for maintaining an Editorial Code of Practice and investigating complaints into alleged breaches of the Code. However, by virtue of its status, the PCC has no powers to impose penalties on those it finds guilty of breaches. For example, print pornography is only placed on the top shelf under voluntary codes drawn up by the retail industry, without public consultation, with no monitoring or evaluation and without powers to fine.
53. The media continues to shape public perception of women's behaviour. Following an intense media focus on women binge-drinking and stories of 'she got drunk and alleged rape', a 2005 poll by Amnesty International and ICM Research found that 30% of a cross-section of the public surveyed believe that a woman who drinks at all is at least 'partly responsible' if she is raped.²⁷
54. Although there has been an increase of women working in the media in general, this appears to have little impact on the culture of institutionalised sexism, both within the industry and in terms of its portrayal. Having a few women in powerful positions does not, in itself, change systems.
55. In recent years, a proliferation of young men's magazines has contributed to the increasing normalisation of pornographic values; pornographers referenced in young men's magazines claim that 'most women fantasise about rape', and 'date rape' and incest are considered subjects for jokes and cartoons. This trivialisation of violence is inevitable where there is no regulation of the pornography industry and no meaningful regulation of the mass media, particularly the press. In June 2006, Parliament voted in favour of introducing regulation of the sale of the 'unrecognised' pornography in young men's magazines and similar publications.
56. We welcome the Government's proposed legislation on the possession of extreme pornographic material²⁸. However, without the provision of adequate resources for investigations there will be limited impact of any legal reform. Moreover research demonstrates that it is not the "extreme" nature of representation that results in tolerance of violence against women, but images which present women as enjoying sexual violence and humiliation. In this respect it is the wider availability and mainstreaming of pornography that is of concern.
57. In 2006, the death of two fashion models from health-related issues sparked intense media debate on the issue of the proliferation of underweight models in the fashion industry, dubbed by some as the 'size zero debate'. Following meetings with the Department for Culture, Media and Sport (DCMS) and the London Development Agency (LDA), the British Fashion Council (BFC) established the Model Health Inquiry which has recently conducted an investigation, chaired by Baroness Denise Kingsmill, into how the London fashion industry promotes health and wellbeing on the catwalk. Published in September 2007, 'Fashioning a Healthy Future', which estimates that up to 40% of models could have some form of eating disorder, outlines a number

²⁷ ICM Research, 2005

²⁸ *Consultation on the Possession of Extreme Pornographic Material: Summary of responses and next steps*, National Offender Management Service and Home Office, 2006

of recommendations for the BFC, including a ban on the use of under-16 models on the catwalk, chaperoning for models aged 16-18 and the requirement for models participating in London Fashion Week to provide a health certificate. The LDA, who has agreed £4.28 million for the fashion industry over the next three years, have written into the grant agreement a break clause should the BFC not clearly make its best efforts to implement the recommendations of 'Fashioning a Healthy Future'. We very much welcome the publication of this report and endorse its recommendations. However, the remit of the Model Health Inquiry does not extend beyond the issues concerning London catwalk models and fails to address the extensive use of underweight and underage models in print media, which is arguably the medium through which the fashion industry exerts the greatest influence on women's perceptions of a healthy and desirable body image.

The WNC recommends:

- *that women's portrayal in the press be regulated by an independent body with clearly defined harm-based codes*
- *that the Government fund long-term awareness campaigns, in schools and in public, on the causes of violence and discrimination and that enables critical perspectives on media images, including pornography*
- *that the Government runs/supports and funds a national campaign, across all communities, that raises women's aspirations, tackles cultural barriers and promotes role models and opportunities for women*
- *that the Government set targets on women's employment in the media*
- *that legislation limits the sale of pornography to licensed outlets*
- *that Government ensures the provision of adequate resources for investigations into the possession of extreme pornography*
- *that the Model Health Inquiry extends its current remit to conduct a review of current practice regarding the use of underweight and young models in print media, including recommendations to Government for reform*

Harmful Traditional Practices

Forced marriage

58. Recent research funded by the Home Office into the prevalence of forced marriage in the UK reveals that at least 3,000 young women in Britain are the victims of forced marriages each year. This figure is far higher than previous estimates suggest.
59. We welcome the establishment in 2005 of the Forced Marriage Unit, a joint FCO and Home Office initiative, that was set up to take a lead on the Government's responses to issues of forced marriage. The Unit has improved the Foreign Office's response to British nationals forced into marriage overseas, and has also raised awareness and produced guidelines for the police, education, social services and the health service. However, in the absence of a comprehensive evaluation and monitoring framework, it remains doubtful as to whether these useful guidelines have been adequately and consistently implemented across the statutory sector in all UK regions.
60. While the Government has funded some initiatives on forced marriage and honour-based violence, for example the Changing Lives Programme (CLP), which has been operating at Tower Hamlets College since January 2004 and aims to help people in the community to address issues of self-harm, domestic violence, forced marriage, social exclusion and mental health in general, there is a need for greater investment to support the work of BME women's groups which have historically provided practical help and support to victims and which are struggling to maintain

these services. In particular, the decision made by Ealing council to withdraw funding from the BME women's group Southall Black Sisters (SBS), based on the view that there is no need for specialist services for BME women and that services to abused women in the borough need to be streamlined, fails to take account of the unequal social, economic and cultural context which makes it difficult, if not impossible, for BME women to access outside help or seek information about their rights. In effect the council proposes to take away essential life saving services provided by SBS.

61. The Forced Marriage (Civil Protection) Act, co-drafted by Lord Lester and a few civil family lawyers, with the support of the NGO Southall Black Sisters, received Royal Assent in July 2007, although there are plans to put off its implementation until autumn 2008. This Act will enable civil courts to provide injunctive relief remedies and protection to victims of forced marriage. It will also enable third parties to apply to courts for protection on the victim's behalf, in recognition that many are often unable to protect themselves. Courts would be able to attach powers of arrest to orders so that if someone breaches an order they could be arrested and brought back to the original court to consider the alleged breach. The Act will give Ministers powers to make the forced marriage guidelines statutory; this is essential. It is also vital that specialist BME women's groups receive adequate resources to aid the implementation of this Act. The Ministry of Justice is currently consulting on Third Party Applications as part of this Act. However, if BME women's services are cut, which looks increasingly likely, this begs the questions of who these third parties will be.
62. The Government has proposed that the minimum age at which foreign nationals can receive a marriage visa to enter Britain is to be raised from 18 to 21 in an attempt to curb forced marriages. In Denmark where the age has been raised to 24 and in the Netherlands where it has been raised to 21, there is little evidence to suggest that this change has led to a reduction in forced marriages. Moreover, it introduces discriminatory rights in a context where equality principles have been reinvigorated through the EHRC.

The WNC recommends:

- *that the Government ensure that guidelines disseminated by the Forced Marriage Unit to relevant agencies are being adequately and consistently implemented*
- *that the Government ensures the support and safety of young women at risk of forced or child marriage, especially that they have access to support from specialised BMER women's groups*
- *that the Government does not raise the minimum age at which foreign nationals can receive a marriage visa to enter Britain*

Female genital mutilation (FGM)

63. According to a study funded by the Department of Health, the number of women aged between 15- 49 who have undergone FGM residing in England and Wales is estimated at 65,790. As this calculation is based on the total population aged 15-49²⁹, the total is likely to be higher given the large population of over 50's women, especially amongst the Somali and Sudanese communities. The number of women who have undergone FGM living in the UK is increasing due to the net inflow of 3,000 new immigrants from FGM practising countries into the UK each year. The study also found that 16,000 girls under the age of 15 are at high risk of FGM Type III and over 5,000 are at high risk of FGM Type I or Type II, totalling an estimated 21,000 girls at risk of FGM in the UK.

²⁹ A Statistical Study to Estimate the Prevalence of Female Genital Mutilation (FGM) in England and Wales, FORWARD/Department of Health, 2007

64. We welcome the introduction of the Female Genital Mutilation Act 2003 and the Prohibition of Female Genital Mutilation (Scotland) Act 2005, which outlaw this practice. These Acts also makes it illegal to take a girl out of the country for the purposes of performing FGM and since the introduction of the Acts many girls have been successfully identified and prevented from being sent abroad. However, we have two specific concerns regarding the Acts: there has not been a single prosecution under the law since FGM was first made illegal 22 years ago and only two doctors have lost their licences to practice medicine as a result of practising FGM; and secondly, the Government is failing to ensure the law is fully implemented. There are very few services available and staff in local services, who need to be able to recognise and tackle FGM, such as midwives, teachers, social workers, nurses, GPs and police officers, receive no training on the issue. In particular, there is a lack of African Well Women's Clinics that offer specialist FGM services, including reversal operations for those who want it.
65. Community groups working to tackle this issue at grass roots level lack funding. Their efforts to educate men and empower women within practicing communities to abandon the practice are crucial, but without adequate funding from Government they are unable to work as effectively as necessary.
66. There is a lack of knowledge transfer between the work the Department for International Development (DfID) is supporting in the developing world and work in diasporic communities in the UK.

The WNC recommends:

- *that the Government ensures the full implementation of the law prohibiting FGM*
- *that the Government ensures widespread knowledge of the prohibition of FGM in practising communities*
- *that the Government ensures that all women and girls who have undergone FGM receive adequate social, psychological and medical support*
- *that the Government introduce consistent and adequately resourced training on FGM, devised in consultation with the relevant women's NGOs and established specialist health services, for all relevant professionals*
- *that the Government implements regulatory frameworks for relevant agency staff (such as those responsible for outbound journey immigration control and embassy staff) so that they can more effectively respond to women at risk of FGM or forced marriage*
- *that the Government funds in-depth investigations into UK communities to discover whether UK FGM prevalence rates are similar to those documented in FGM practising countries*
- *that the Government ensures knowledge transfer between domestic and development policy on FGM*

'Honour' crime

67. We welcome the resolution presented by the UK and Turkey to the United Nations General Assembly in October 2004 to eliminate crimes against women and girls committed in the name of honour. This term encompasses a variety of forms of violence against women where victims are perceived to have brought shame or dishonour to their family or community. However, the law now needs to support this resolution which calls on member states of the UN to prevent, investigate, punish perpetrators and protect victims. There have been many examples where men accused of this violence have tried to use a cultural or religious defence. It is vital to emphasise that cultural traditions cannot override a women's right to life or any other human right. Through the work of NGO's and committed professionals within the Criminal Justice System, this

resolution has certainly had an impact on the debates on issues of forced marriage and honour-based crimes in the UK, leading to some improvement in institutional responses.

The WNC recommends:

- *that the Government ensure that victims of ‘honour’ crimes can access the support and advice they need through implementing guidelines, enforcing civil and criminal law, training frontline workers and funding grassroots BME women’s groups*
- *that the Government engage in dialogue with male community leaders on issues of BME women’s rights under UK civil law*
- *that the Government ensures that work on ‘honour’ crimes is integrated into a gendered approach to violence against women, as has been promoted by the UN for over a decade*

ARTICLE 6 — EXPLOITATION OF WOMEN

Trafficking of women and girls

68. The UK has ratified both the UN Convention Against Trans-national Organised Crime and its Trafficking Protocol, but has yet to fully implement its commitments. The statute law prohibiting trafficking needs to be widened beyond prostitution and domestic service to conform to the definition in the Protocol. There is currently very little protection for trafficked women in the UK and only 35 bed spaces are provided within safe houses as part of the Home Office funded Poppy Project³⁰. Further, these safe houses are for victims of sex trafficking only. This is wholly inadequate; the Government’s 6th Report to CEDAW estimates that there are approximately 4,000 women trafficked for prostitution in the UK at any time (paragraph 569), although the clandestine nature of the trade makes accurate estimates very difficult. Moreover, funding is not secure, being given for no more than a few years at a time. We know of no such initiative available for people trafficked for other purposes, including women trafficked for the purposes of domestic and forced labour. Further, one safe house for girls was closed due to a funding deficit where the Government decided that specialist support was no longer needed.
69. The Sexual Offences Act 2003 makes trafficking of people for sexual exploitation a criminal offence, but more needs to be done to prosecute perpetrators. Trafficking routes into the UK involve women and girls from, for example, Albania, Kosovo, Russia, Lithuania, Romania, Bulgaria, China, South East Asia and Nigeria. Girls are told to apply for asylum at the port of entry and are then referred to Social Services. They disappear when the traffickers make contact with them. The girls may be taken to other EU destinations, such as Italy, where they are forced into prostitution.
70. The Government has proposed a new points-based system (PBS) to manage the flow of migrants coming into the UK to work or study.³¹ Given that demand exists for lower-skilled migrant labour and that legal routes to migration are being shut down to lower-skilled women from non-EEA countries, there is concern that more women will fall prey to traffickers and people smugglers as the only way to migrate. Already women constitute the majority of persons trafficked to the industrialised world.
71. We welcome the UK Government’s commitment to signing the Council of Europe Convention on Action against Trafficking in Human Beings. The Convention allows for temporary leave to remain to be granted if a trafficked person may be endangered by removal to the country of origin. The UK Government should make a clear commitment to grant temporary or permanent

³⁰ www.eaves4women.co.uk/POPPY_Project/POPPY_Project.php

³¹ *A Points-Based System: Making Migration Work for Britain*, The Home Office, March 2006.

residence to victims who are at risk of suffering further human rights violations if deported, regardless of whether they cooperate with a prosecution.

72. We call for a 'reflection period' for victims of trafficking to be introduced in close consultation with grass-roots organisations, that builds on lessons learnt from the model utilised in the Netherlands. This would give victims the chance to receive assistance, recover from their trauma and make informed decisions about whether they wish to cooperate with the authorities in prosecuting the traffickers. This support and advice is of fundamental importance given the risk to their own lives and those of their families in their country of origin. Such a system is proposed in the European Commission's proposal for a Council Directive on short-term residence permits to victims of illegal immigration or trafficking in human beings who cooperate with the competent authorities.
73. As well as ratifying the Council of Europe Convention, it is vital that the Government ensures protection for all types of trafficking. Domestic workers (MDWs) are particularly vulnerable to abuse and frequently trafficked to the UK for the purpose of both labour and sexual exploitation. In 1998, the Government changed the immigration rules for MDWs in order to give them an independent immigration status and the right to change employers. This meant they could escape abuse without breaking the law. Despite the Government's stated commitment to protect victims of trafficking, proposals announced by the Home Office in March 2006 to Kalayaan, a UK charity which works with MDWs, are to change the immigration rules for migrant domestic workers. The proposals are that MDWs would enter the UK on an amended 'business visitor visa' which would be valid for six months, with no right to change employers and no right to a visa renewal. Should these proposed changes become law, MDWs will have no effective route by which they can resist any maltreatment and abuse. The removal of the option to leave or to challenge an exploitative or abusive employment situation directly contravenes the Government's stated policy, and is arguably a breach of the convention.
74. We very much welcome Operation Pentameter 2. Launched in October 2007 by the United Kingdom Human Trafficking Centre, a police-led unit, it aims to rescue and protect victims of trafficking for sexual exploitation and to identify, disrupt, arrest and bring to justice those involved in criminal activity. We particularly welcome the operations focus on victim care and the allocation of an extra £100,000 to the Poppy Project in order to fund the extra bed spaces and support that will be required for victims following successful raids. This sends a clear signal that lessons were learnt from Pentameter 1, where no extra resources were allocated.
75. Cross-agency and cross-border co-operation is needed to address trafficking effectively. Many trafficked women experience violence at home as well as in countries they are trafficked to.
76. There is an urgent need to address the demand from men across national boundaries, and both national and international campaigns must address demand and 'normalisation' of buying sex.
77. Internal trafficking of UK women and girls is common, but remains hidden and hardly addressed. British girls are targeted and groomed from the age of 11 and lured into prostitution from which they cannot escape due to violence and coercion. We welcome the fact that the new UK Human Trafficking Centre has recognised this abuse and created a staff post to work on internal trafficking. This issue needs to be integrated into prostitution policy.

The WNC recommends:

- ***that the statute law prohibiting trafficking be brought into line with the definition of trafficking as laid down in the Trafficking Protocol to the UN Convention Against***

Transnational Organised Crime , including women victims of onward trafficking

- *that support for victims of all forms of trafficking be provided in the form of properly resourced services from a specialised agency in compliance with the UK's convention commitments*
- *that the UK Government Ratify the Council of Europe Convention on Action against Trafficking in Human Beings*
- *that the proposed changes to the immigration rules for migrant domestic workers be dropped*
- *that victims of trafficking be given a 90 day reflection period to consider whether they wish to work with the authorities in prosecuting their traffickers*
- *that the Government allocates confiscated assets from traffickers and exploiters to services for trafficked women in the UK and countries of origin*
- *that funding be provided to UK trafficking projects to enable them to build on existing networks between UK and international NGOs to facilitate women's safe return and initiate partnership working to address demand*
- *that greater incentives be given to police forces and Local Safeguarding Children Boards to monitor the extent of internal trafficking and to implement legislation in order to prosecute the criminal perpetrators (e.g. greater use of hearsay evidence in the Criminal Justice Act, and charges of grooming, abduction, kidnapping, rape and trafficking under the Sex Offences Act.)*

Child trafficking and commercial sexual exploitation

78. The Government has not yet ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. The Government has acknowledged that the UK is a destination country for human trafficking. However, only limited assessment has been done on the trafficking of children, both from abroad and within the UK.

The WNC recommends:

- *that greater incentives should be given to police forces and Local Safeguarding Children Boards to monitor the extent of internal trafficking and to implement legislation in order to prosecute the perpetrators*
- *that the Government provides safe places for children caught in the web of commercial sexual exploitation.*

Women in prostitution

79. Women involved in any aspect of the sex industry in the UK lack protection and find it hard to access either rights or services. Although statistics are notoriously difficult to gather on this subject, research suggests that there are an estimated 80,000 people involved in prostitution in the UK.

80. Prostitution takes place in a variety of contexts and those involved are far from a homogeneous group. However, research suggests a number of common characteristics; as many as 85% of those involved in prostitution report physical abuse in the family, with 45% reporting familial sexual abuse. Many report poor school attendance and as many as 70% spent time in care. Further, many report having run away from home, or having suffered periods of homelessness. We currently lack analysis of the ethnicity and sexual orientation of women involved in the sex industry, or the variations across urban and rural contexts.

81. Nearly every study of women involved in street-based prostitution shows a strong correlation with Class A drugs, with as many as 95% of those working on the streets being problematic drug users³². A comparative study found that women on the streets became involved in the sex industry at a younger age and experienced significantly more violence and abuse than those working indoors (81% compared to 41%)³³.
82. Studies indicate that 3 out of 4 women in prostitution become involved aged 21 or younger, and 1 in 2 aged 18 or younger³⁴. Children from any background can be targeted in places where young people congregate; parks, fast food outlets, shopping malls, outside schools. More resources should be devoted to preventative work in schools to promote attitudinal change in boys, particularly through citizenship education. Once involved in prostitution, women are at further risk of experiencing gender-based inequalities ranging from violence and rape to institutional gender discrimination in the criminal justice system. Additionally, there are insufficient sexual health services to meet the needs of these women. A recent study using econometric analysis shows that the short term financial gains from selling sex are more than offset over the life course, and selling sex is a major risk factor for a life of poverty³⁵.
83. In off-street prostitution, research in London shows that only 19% of the women are British; 25% were from Eastern Europe, 13% were from South East Asia, 12% from Western Europe, 6% each were from Scandinavia and South America and 5% were from Africa and the Caribbean.³⁶
84. There is increasing evidence to suggest that women involved in prostitution are being punished and penalised through the inappropriate use of Anti-Social Behaviour Orders (ASBOs) or civil orders. Although custodial sentences for women involved in the sex trade were repealed in 1982, it is through breaches of ASBOs that women now receive prison sentences, leaving them with criminal records and thus making it harder for them to find alternative employment. Research suggests that criminalising women who sell sex undermines their safety as they are wary of police attention and work away from established areas. Criminalisation may deter women from reporting crimes against them. Further, the threat of arrest does not provide a conducive/optimum context for providing holistic support services in order to address harm reduction issues and routes out. There is a growing awareness amongst law enforcers that using ASBOs or civil orders to control women in prostitution is neither ethical nor effective.
85. We would like to express support for the introduction of Clause 72 in the Criminal Justice and Immigration Bill (2007), which the Government intends to introduce at the ‘earliest opportunity.’ If it becomes law, this Bill will require anyone arrested for loitering or soliciting to have ‘a series of meetings with an approved supervisor to promote rehabilitation by assisting the offender to address the causes of their involvement in prostitution and to find ways to end that involvement.’ However, we would also like to express concern that the Bill also states that ‘failure to attend will result in a prison sentence of 72 hours.’ We are pleased that this Bill encourages and facilitates access to rehabilitation but are concerned that a move towards remand is a step backwards. We hope that the temporary shelving of this Bill will allow for considerable improvements to be made.

³² *Paying the Price: a consultation paper on prostitution*, The Home Office, 2004

³³ Church S, Henderson M, Barnard M, Hart G. Violence by clients towards female prostitutes in different work settings: questionnaire survey. *British Medical Journal* 2001; **322**:524-525.

³⁴ *ibid*

³⁴ Child and Women Abuse Studies Unit Website, 2008

³⁵ Linda De Riviere “A human capital methodology for estimating the lifelong personal costs of young women leaving the sex trade” *Feminist Economics* July, 2006 12(3): 367-402

³⁶ http://www.eaves4women.co.uk/POPPY_Project/Research/Campaigning/Sex_in_The_City.php

86. Government figures for 2002 show 2,678 convictions for soliciting but only 993 for kerb crawling.³⁷ This focus discriminates against women and fails to address the harmful male behaviour and the buying of sexual services.
87. The laws on prostitution are fragmented, confusing, and ineffective, and a comprehensive review of the law is urgently needed before more legislation is passed. We welcome the Government's Prostitution Strategy; however it has been under-resourced. A further investment needs to be directed at meeting the various social care needs of individuals who wish to leave the sex industry but are struggling to do so (i.e. housing provision, drugs services, specialist training, education and employment advice).
88. The 'Routes Out' approach, which enables women to exit prostitution through support and training, is increasingly identified as an appropriate approach for addressing the harm prostitution causes to women and young people. As a review of the considerable research evidence shows, good practice principles for project delivery include user-focused, holistic and flexible services which take into account the diverse needs of those involved in sex work.
89. The Prostitution (Public Places) Act 2007, was passed by the Scottish Parliament in February 2007 and criminalises soliciting a prostitute for sex and loitering for the same purpose.

The WNC recommends:

- *that the Government conduct a comprehensive review of the law on prostitution*
- *that the Government invests in its prostitution strategy*
- *that the Government invests in addressing and reducing the demand side of prostitution*
- *that the Government develops effective mechanisms to monitor the off-street sex industry and ensure the women working there are protected from violence, exploitation and coercion*
- *that the Government acknowledges the importance of exit strategies through providing adequate investment for such strategies*

Women in 'adult entertainment'

90. The use of women in degrading entertainment reinforces the sexualisation of women. Table-dancing and lap-dancing clubs have flourished over recent years in many areas. Research shows that since the establishment of a number of lap-dancing clubs in the London Borough of Camden in 1999, there has been a massive increase in violence against women in the borough, with indecent assaults up 57% and incidents of rape up 50%.³⁸ Even given the national trend for an increase in the reporting of sexual violence this increase goes well above the increase in national reporting levels and in 2001 in Camden the female rape rate per 1,000 was 3 times the national average
91. A report commissioned by Glasgow City Council revealed that such establishments are run in a way that implicitly encourages customers to expect and seek sexual services from the dancers and that creates a conducive context for prostitution. There is evidence that dancers suffer humiliation and sexual harassment on a regular basis from customers and staff. Current licensing conditions are inadequate and fail to enable local authorities to control the proliferation of such establishments³⁹. There is also concern over the inevitable rise in the number of lap dancing clubs with the advent of Super Casinos and the 2012 Olympic Games. The Games are also likely

³⁷ Home Office Communication Directorate, 2004.

³⁸ *Lilith Report on lap dancing and striptease in the Borough of Camden*, The Lilith Project, 2003

³⁹ Glasgow City Council (2004) *Profitable Exploits: Lap Dancing in the UK*. Child and Women Abuse Studies Unit, London Metropolitan University: London.

to have an effect on the sex market, including trafficked women, as the availability of sex for purchase is increasingly associated with the package of large scale sporting events.

The WNC recommends:

- *that lap-dancing and similar clubs be licensed under the same conditions as sex shops*

ARTICLE 7 — POLITICAL AND PUBLIC LIFE

Public appointments

92. The UK has around 834 national public bodies, which offer more than 22,000 public appointments, but women hold only 35.5% of these positions. Of these, less than 2% are BME women.⁴⁰ Women usually hold junior unpaid posts rather than the senior paid ones, which are still dominated by men. There has been a very small rise in the number of women, but no additional resources have been earmarked to support the target of 50% women in public appointments; without this, very little progress can be made.

The WNC recommends:

- *that the government ensures its own targets for increasing the percentage of women represented on public bodies, including disabled and minority ethnic women, are actually met*

Political life

93. Since the inclusion of the new Sex Discrimination (Election Candidates) Act 2002, political parties have been able to adopt positive action mechanisms if they wish to do so. Due to this, after the 2005 General Election there was a small increase in the number of women MPs to 128 of the 656 MPs, 19.8% of all MPs - up from 118 after the 2001 general election. Before the election, each of the party leaders said they wanted more women in Parliament, and all of the three main political parties undertook some equality promotion measures such as extra training for women, but only the Labour Party used positive action in the form of all-women shortlists in some seats. Considering the Labour Party's overall loss of MPs, the increase in the number of women Labour MPs, from 95 to 98 (27.5 % of the party), was impressive. Following the election, women made up 16.1 % of Liberal Democrats MPs and only 8.6 % of Conservative MPs.⁴¹ At the current rate of change, it will take Labour around 20 years to get to 50-50 women and men, the Liberal Democrats around 40 years and the Conservatives around 400⁴². We recognise and welcome the option to adopt positive action mechanisms but acknowledge that not all political parties have utilised these in order to bring about the equalisation of women and men present in the House of Commons.

94. The number of women Members of Parliament (MPs) is not reflective of the diversity or volume of women involved in 'grassroots' and community politics. The increase in 2005 in the House of Commons from 17.9% to 19.8% women MPs, indicates just how slow change is to come about. The UK is ranked in 47th place out of 184 countries in the Inter-Parliamentary Union's table of women in Parliament, considerably behind Sweden (45.3%), Denmark (36.9%), and Finland (37.5%). The loss of most hereditary peers in 1999 resulted in a slight improvement in the gender balance in the House of Lords, as the hereditary peers were overwhelmingly male. As of July 2005, women form 19% of the 698 temporal members of the Lords. Women's representation in the House of Commons and the House of Lords remains extremely poor.

⁴⁰ The Office of the Commissioner for Public Appointments Tenth Annual Report 2004–2005

⁴¹ *Women's Representation in British Politics*, Fawcett Society: London, 2006

⁴² Fawcett Society, www.fawcettsociety.org.uk, 2007

95. Prejudice within local selection committees is often cited as being a main reason for the low number of women MPs - 41% of parliamentary candidates have said that selection committees in their parties look more favourably on male than female candidates.⁴³ Research into women's experiences of candidate selection, revealed both direct and indirect discrimination against female candidates as well as incidents of sexual harassment.⁴⁴ In the 2005 general election nearly half of all voters were denied the choice of voting for a woman from one of the three main parties⁴⁵.
96. Additionally, women experiencing violent relationships often face great obstacles to participating actively in public and political life: in forced marriage, as in domestic violence, for example, women experience a denial of contact with others outside the home, denial of education, and lack of mobility. Self-confidence is the first thing a woman loses when living in an abusive relationship.
97. Just over a quarter (27%) of local authority councillors are women and no region has reached the threshold of one-third female councillors. Further, only 2% of local councillors are BME women⁴⁶. There is significant disparity between individual councils; for example, the London Borough of Islington has 54.2% female councillors, while the Isle of Anglesey has just 5% female councillors.
98. Minority ethnic women face additional barriers to selection and, at present, there are only two elected minority ethnic women at Westminster⁴⁷. There are very few disabled women in political positions. Those disabled women who have reached positions of political power may find that they are routinely discriminated against.
99. That the Parliament in Scotland and the Assembly in Wales have achieved a much greater gender balance shows that these barriers can be successfully overcome if women have an equal chance of selection to winnable seats. This strongly indicates that similar state measures at UK level would have the same result.

The WNC recommends:

- ***that the Government actively encourage all political parties, to adopt 'all women shortlists' to increase the percentage of women Members of Parliament***
- ***that the initiatives being taken in both the Welsh Assembly and the Scottish Parliament towards gender equality in representation be extended to the UK as a whole***
- ***that the Government actively encourage all political parties to take measures to rectify the imbalance between men and women among candidates presented for election***

Public Sector and the Civil Service

100. Nearly one-third of employed women work in the public sector (twice the rate of men), however, the number of women in senior roles is significantly less than their male counterparts. For example, women make up only 0.4% of senior ranks in the armed forces, 26% in civil service top management, 23% of trade union General Secretaries and only 21% of local authority Chief Executives⁴⁸. While nearly half of appointments and re-appointments in the National Health Service are women, only 38% of women are executives and women are less likely than men to be appointed Chair.

⁴³ Fawcett Briefing: The 4 C's, The Fawcett Society: London, 2001

⁴⁴ Ibid

⁴⁵ www.fawcettsociety.org.uk/documents/Women_candidates_May05.doc

⁴⁶ <http://www.fawcettsociety.org.uk/index.asp?PageID=61>

⁴⁷ The Fawcett Society

⁴⁸ Sex and Power: Who Runs Britain?2007, Equal Opportunities Commission, 2007

101. Women make up 7% of senior police officers in England and Wales. In London's Metropolitan Police only 1% of the total number of police officers are minority ethnic women. None of these women are in the senior levels, despite the fact that there are almost 900,000 minority ethnic women over 16 years of age in London.

The WNC recommends:

- **that the Government takes active steps to ensure its equality and diversity targets for women's representation in senior public sector roles are met and exceeded**

Devolution

102. Of the 108 members elected to the Northern Ireland Assembly in 2007, 18% are women⁴⁹ (only a 1% rise on 2003), and 21.5% of local Government councillors elected in 2005 are women. However, following the Review of Public Administration the number of local councils in NI has been drastically reduced and there are concerns that the number of women councillors will be adversely affected by this. Currently none of the political parties in Northern Ireland operate a positive action policy regarding selection of candidates as allowed by the Sex Discrimination (Election Candidates) Act 2002. However, a welcome development has been the Northern Ireland Local Government Association initiative which saw the appointment of Political Gender Champions to advance women in political parties.
103. Northern Ireland is now in transition from a conflict to a post-conflict society. However, while there has been some recent increase in the number of women appointed to the new institutions established under the peace process, gender equality has not been embedded into the new structures and systems. We recommend that UN Resolution 1325 on *Women, Peace and Security* be fully implemented to ensure women's representation on all the institutions established as a result of the conflict in Northern Ireland.
104. Priorities for women in Scotland remain as poverty, violence and participation. Devolution has benefited women's participation and influence at parliamentary level - 39% of Members in the Scottish Parliament (MSPs) are female (the target is 50%). However, only 18.8% of Scottish local councillors are women. The Scottish Parliament uses the Additional Member System to elect 129 MSPs. Under this system each voter has two votes; a constituency vote and a regional vote. This system has resulted in smaller parties gaining seats, and also tends to favour women. Local elections now use the Single Transferable Vote system which may also favour smaller parties. The Scottish Green party has gender balance written into its constitution. Unfortunately, none of the major parties has made choosing women candidates a priority, and consequently it is very possible that representation of women at the national and local levels will decline. The Scottish Government is committed to gender mainstreaming, but progress continues to be token.
105. Currently in Scotland women make up only 33.3% of Members of the Scottish Parliament, 18.8% of local authority council leaders and 12.5% of local authority chief executives. Further, only 11.6% of senior police officers are female, and 11.8% of senior judges. In the Health Service in Scotland, women make up 23.8% of chief executives. In the field of education, 20.9% of secondary head teachers, 23% of university vice chancellors and 27% of further education college principals are female⁵⁰. In a report issued January 2007,⁵¹ Equal Opportunities (Scotland) stated, 'Scotland is missing out on a pool of female talent and women

⁴⁹ www.niassembly.gov.uk/members/membership07.htm

⁵⁰ *Keeping Women on the Agenda*, Engender, 2007

⁵¹ *Sex and Power: who runs Scotland*, Equal Opportunities Commission, 2007

are missing out on fulfilling their potential. If we are to maximize the use of our female talent we have to take concerted action to remove the barriers in their way, or opportunities will be lost for generations to come.'

106. The Welsh Assembly Government's Equality Committee scrutinises current developments, closely collaborating with the Equal Opportunities Commission and other relevant bodies. Women form 47% of Wales Assembly members and three out of seven Ministers in the Welsh Assembly Government. Of Assembly-sponsored public bodies, only 13% have women chief executives. The Welsh Local Government Association has set up an Equalities Unit, but so far without much visible effect. The Welsh Local Government Association has teamed up with Women's Voice to examine the key factors women have identified as needing attention to promote and encourage more women into public life. They will be publishing the findings and holding a workshop to examine the way forward.

ARTICLE 8 — WOMEN AS INTERNATIONAL REPRESENTATIVES

Women as international representatives

107. Foreign and Commonwealth Office (FCO) figures show that the percentage of women in the senior management grades in 2006 is 16%, a figure that has doubled since 2001. Although we welcome this increase, we feel that this figure is extremely low, and that the FCO did not achieve its departmental target of 20% by 2005. The low level of women in senior posts within the FCO is further evidenced with only 17 women Ambassadors or High Commissioners out of around 220 diplomatic posts worldwide in 2006.⁵² Representation of women on the European stage is also extremely low with women making up only 25.6% of current UK Members of the European Parliament (MEPs). Representation across constituencies is highly varied with the highest representation of women occurring in the 'Wales' constituency, where 3 of the 4 MEPs are women, and the lowest representation occurring in the 'Eastern' constituency where none of the 7 MEPs are women.

The WNC recommends:

- *that the targets currently in place in the Foreign and Commonwealth Office for the advancement of women should be greatly increased*
- *that the Government actively encourage all political parties, to adopt 'all women shortlists' to increase the percentage of women Members of the European Parliament (MEP's)*

Conflict prevention and resolution

108. Although we strongly welcome initiatives undertaken by the Government on United Nations Security Council Resolution 1325 (UNSCR 1325), we were very disappointed to see the lack of women in senior positions involved in conflict resolution and peace-keeping, particularly in Afghanistan and Iraq. Gender adviser posts in UN teams and in post-conflict situations are often left unfilled. We are disappointed that the implementation of UNSCR 1325 is not given the same priority as other UN resolutions, in particular in the adoption of measures to include women in democratic Governments. In particular, given the relevance of UNSCR 1325 to Northern Ireland, it is disappointing that the proportion of women in the Northern Ireland Assembly did not increase with the recent election. Despite their skills and experience, women continue to be under-represented in peace building and conflict initiatives in Northern Ireland and among contributors to international conflict prevention and peace building.

⁵² FCO Departmental Report 2006, Foreign and Commonwealth Office

The WNC recommends:

- *that the Government increase funding to implement UN Security Council Resolution 1325*
- *that the Government take active steps to involve more women in conflict resolution and peace-making, and in post-conflict governance*

NGO Representatives

109. Although outside the remit of the Convention, we feel that it is important to note the issue of international NGO representation. Primarily due to the lack of capacity of women's organisations to engage with international instruments (such as CEDAW and the Beijing Platform for Action), very few women's organisations have the opportunity to represent the UK NGO sector at an international level. We believe that improved support to enable the building of capacity is needed in order to increase the number of women knowledgeable about international instruments and create a more democratic process for selecting NGO sector representation. We urge the Government to look to international models of good practice. For example, in 2000, the New Zealand Government fully funded three NGO representatives, who were formally elected by the NGO sector, to attend the Beijing +5 Special Session in New York. The NGO representatives were registered as part of the official Government delegation and therefore had full access to the General Assembly and negotiations, which proved invaluable to their ability to actively participate in the parallel NGO session. Funding has also been made available for NGO CEDAW representation.

The WNC recommends:

- *that the Government increase support to enable capacity building for women who work in the NGO sector, to participate within the international arena*

ARTICLE 9 — NATIONALITY

Asylum, nationality and immigration

110. In 2004, there was a welcome reform to immigration rules in regards to domestic violence, giving victims whose relationships break down due to domestic violence within the two-year probationary period following marriage to a British or settled partner, the right to remain permanently in the UK (this policy was initially introduced as a concession in 1999). This reform has made a significant difference to the lives of many women and children subject to immigration control by enabling them to escape domestic violence without the fear of deportation. However, it can be difficult for those women who have been too frightened to access services before making an escape, to provide the proof required to make such a claim. Further, this reform does not extend to all women of insecure immigration status. The Government has also limited the full effectiveness of this reform by refusing to allow victims access to public funds, preventing many from leaving abusive situations. This means that women of unsettled immigration status are not allowed access to public funds (the 'no recourse to public funds requirement' or 'NRPF'), which denies victims access to public housing and social security benefits. Although the Government has allowed refugees to use their Supporting People grant to provide support to victims with no recourse (see point 598 in the 6th Report), these only cover support costs such as salaries of paid support workers. It does not cover rent or living expenses which means most victims with no recourse cannot even enter a woman's refuge due to their ineligibility for housing and other benefits. Southall Black Sisters national research shows that there are approximate 600 cases of domestic violence and no recourse⁵³,

⁵³ Domestic Violence, Immigration and the 'No Recourse to Public Funds' Rule: Southall Black Sisters Submission to Home Affairs Select Inquiry into Immigration Controls, March 2006.

and Home Office figures show there could be about 800⁵⁴. This is a small, but significant number as it denies one of the most vulnerable group (migrant women subjected to abuse) access to avenues of escape from gender based violence.

111. Children of a British born mother and foreign father who were born outside the UK or Commonwealth prior to 7 February 1961, have no claim to British nationality unless they registered to do so before they turned 18. This was not the case for children of British born fathers and foreign mothers, demonstrating discrimination toward women. Although this rule no longer exists, there are many children of British mothers born prior to 7 February 1961 who wish to gain British citizenship, who are not able to do so.
112. Greater efforts should be made to understand the way in which women participate in political, religious and other struggles and how this may lead to persecution. Asylum status is usually based on male patterns of political dissent, which are carried out in the public domain, rather than the activities of women, which are often private or domestic. There is a tendency to ignore, undervalue and marginalise women's experience⁵⁵.
113. The Government often refuses asylum, and even humanitarian protection, to women escaping gender-related persecution such as domestic violence, forced marriage, female genital mutilation, and honour-based violence. They propose "relocation", such as to a woman's shelter in their country of origin, as a solution to abuses from non-State actors. This is often an unrealistic option in countries where there are inadequate or insecure shelters and lack of State and family support, particularly in patriarchal societies.
114. The Home Office incorporated gender guidance in order to enable a fair assessment of women's asylum cases into its Asylum Policy Instructions in March 2004. Research published in March 2006 identified that there was very little evidence of this gender guidance being implemented by the Home Office.⁵⁶ A key problem identified was the lack of female interviewers and interpreters. This gravely impacts on women's ability to disclose their stories in full, especially about sexual violence. Home Office caseworkers often did not take into account the effects of trauma on recounting events (even though this was outlined in the gender guidance) and occasionally used discrepancies in accounts against claimants. Ignorance of women's situation and status in their countries of origin was exacerbated by the poor quality of country information on women's issues provided by the Home Office to its decision-makers.
115. The Immigration Appellate Authority (IAA) Gender Guidelines⁵⁷ were published in November 2000 in order for the IAA judiciary to incorporate an understanding of gender into the assessment of asylum claims.⁵⁸ In particular, the Guidelines emphasised how the Refugee Convention should be interpreted to reflect women's experiences of persecution, harm, political activity or resistance, and how these affect their asylum claims. Although this provided a recognition of the need for the asylum determination process to be sensitive to gender, by ensuring that practice does not discriminate (either deliberately or inadvertently) against women, in September 2006 the Gender Guidelines were removed from the Asylum and Immigration Tribunal's (AIT) website and the AIT stated they were not their policy.

⁵⁴ Written answers, 18 October 2006, Hansard

⁵⁵, *Immigration, Nationality and Refugee Law Handbook*, Joint Council on the Welfare of Immigrants, 2002

⁵⁶ S. Ceneda and C. Palmer, *Lip service or implementation? Home Office Gender Guidance and Women Asylum Seekers* (London: Asylum Aid, 2006) and H. Crawley and T. Lester, *Comparative analysis of gender-related persecution in national asylum legislation and practice in Europe* (Geneva: UNHCR, 2004)

⁵⁷ Available at: www.asylumsupport.info/publications/iaa/gender.htm.

⁵⁸ WAN Issue no.6 January 2001, p.2 online at www.asylumaid.org.uk/New%20RWRP/WAN/Issue%206%20Word%202000.doc

116. The Gender Equality Scheme and Action Plan produced in May 2007 by the Border and Immigration Agency (BIA) fails to mention the Asylum Policy Instruction on *Gender issues in the asylum claim*. The Refugee Women's Resource Project at Asylum Aid has identified a range of practical measures which they believe the BIA needs to put in place in order to comply with its gender equality duty. BIA consulted Asylum Aid on its draft Gender Equality Scheme and Action Plan but none of their suggestions were included in the final version.
117. For a woman claiming asylum, disclosure of any experiences of rape or sexual violence at an early stage in the asylum process is essential for the fair determination of her case. Until recently the BIA had a policy to try to comply with a request for an interviewer of the same sex as the applicant, if made in advance of the interview. Many NGOs have been campaigning for some years in support of a proactive policy of asking asylum applicants at the screening stage whether they have a preference as to the gender of their interviewer. In March 2007 the BIA said there were operational constraints which prevented them from doing this. However the ratio of female interviewers was sufficient to accede to such requests and after a focused campaign by NGOs they then stated in June 2007 that they would ask this question. It then took six months to implement this new policy.
118. Since April 2007 a network of campaigners has been lobbying for the BIA to provide childcare during asylum interviews. Without this, women can be distracted or unable to speak about some of their experiences and the children themselves can be traumatised. One region now provides such childcare one day a week but other regions are failing to follow this good example and the BIA refuses to set a national policy.
119. Research has shown that 99% of women detained in a fast track asylum determination process had their asylum claim turned down by the Home Office. Women do not have enough time to disclose traumatic experiences or prepare properly for their appeals and do not have sufficient access to legal representation. Once their case has been turned down, women continue to spend long periods in detention.⁵⁹
120. The staffing ratio within Yarl's Wood, the only Immigration Removal Centre solely for women and families, is 46% female and there is no target ratio. The actual and target ratio in a new women's prison (Bronzefield) is 60%. If women asylum seekers are kept in detention their circumstances should not be at a lower standard compared to women who are in prison.
121. The partner of disabled asylum seekers may be their main caregiver, making it more difficult to seek assistance.
122. Those seeking asylum because they are persecuted for their sexual orientation or gender identity find that immigration officials lack awareness of the issues. For example, lesbians may be told that as they have children, they must be heterosexual and not at risk of persecution. Their persecution continues however, when they arrive here, as they are often housed with homophobic asylum seekers. They rarely receive counselling for their trauma, and, as a result, often present symptoms of Post Traumatic Stress Disorder, neurosis and psychosis.
123. Reforms of legal aid are reducing the availability of appropriate legal advice services still further.⁶⁰ This could have a greater impact on women, who may need longer to disclose the

⁵⁹ Refusal Factory, Women's experiences of the Detained Fast Track asylum process at Yarl's Wood Immigration Removal Centre, Bail for Immigration Detainees (BID), September 2007

⁶⁰ Asylum Aid (2006) *Legal Aid: a sustainable future*, Asylum Aid's consultation response to the Legal Services Commission and Department for Constitutional Affairs, London: Asylum Aid, 3-4

abuses they have experienced. Accessing the relevant country of origin information to support their claim may take longer as women's human rights abuses are less well documented.⁶¹

124. Research has found that refugee and asylum seeking women live in constant fear of violence and feel so unsafe that 83% live under self-imposed curfew. A third walk everywhere because they cannot afford public transport, adding to their feeling of vulnerability, and a further third have been verbally or physically abused, including being spat on or shouted at.⁶² Women asylum seekers are subject to racism (both physical and verbal attacks) and exclusion. The dispersal policy is augmenting the problem, as women are sent to parts of the country that are not prepared for, or welcoming of, refugees and asylum seekers.
125. The government is expected to bring in a new policy refusing asylum seekers access to primary health care through the National Health Service. Such charges could prevent vulnerable people including pregnant women and children and women who are HIV+, from accessing vital treatment.⁶³
126. Asylum seeking women and those who are dependent on their husband's application for asylum with professional qualifications, such as teachers, nurses and doctors, are denied the opportunity to work in the UK, despite acute shortages of their skills and their eagerness to work; about 90% want to work. Of women with security of residence and full employment rights, less than a fifth are in work. They are blocked by Home Office regulations and a lack of facilities to convert overseas qualifications. They could be retrained at a fraction of the cost of a full course of training and would bring valuable language skills and cultural understanding.
127. Children who are subject to immigration control are treated as migrants first and foremost. Their needs and vulnerabilities as children are routinely ignored. While children are living in this country, they must be afforded equal rights and treatment under UK law. The emphasis should be placed on ensuring that the policies and practice of immigration control is compatible with our national and international obligations towards children as one of the most vulnerable groups in our society. Services for children of asylum seekers and unaccompanied minors and the detention of children are inadequate.⁶⁴ The UN Committee on the Rights of the Child has recorded its concern that 'the detention of [children claiming asylum, either with their families or on their own] is incompatible with the principles and provisions of the Convention'.⁶⁵

The WNC recommends:

- ***that the domestic violence rule should be extended to all women subject to domestic violence and immigration control***
- ***that all women who are subjected to domestic violence or abuse and immigration control should be exempt from the restriction on public funds (NRPF rule)***
- ***that the time limit on British citizenship of 7 February 1961 be removed for the children of British mothers and foreign fathers***
- ***that the BIA and Asylum and Immigration Tribunal better understand the nature of the persecution that women face, in the terms of the Refugee Convention and fully recognise that gender persecution including persecution because of sexual orientation or gender identity can be grounds for asylum and humanitarian protection***

⁶¹ Bail for Immigration Detainees and Asylum Aid, *Justice Denied* (London: Asylum Aid, April 2005), 26-7

⁶² Dumper, H. (2002) *Is It Safe Here? Refugee Women's Experiences in the UK*. Refugee Action: London.

⁶³ <http://www.medact.org/>

⁶⁴ http://www.lawcentreni.org/Policy/Responses/Responses%202006/JCHR_inquiry.htm

⁶⁵ Available at: <http://www.ohchr.org/english/law/pdf/crc.pdf>

⁶⁵ *The Destitution Trap: Research into destitution among refused asylum seekers in the UK*, Refugee Action 2006

- *that the BIA and Asylum and Immigration Tribunal recognise the particular difficulties that women may face because of their individual circumstances (eg single, single mother, widow) and the social, economic, and cultural status of women in their country of origin in making decisions as to whether it is unduly harsh for a woman to return to an alternative location in that country*
- *that the gender guidelines are fully implemented and monitored by the BIA and included in accreditation*
- *that the BIA appoint a women's champion at a senior level to provide a coherent and consistent approach to issues that affect women asylum seekers*
- *that the BIA appoint an independent equality monitor to include gender issues and to report back to the Equality and Human Rights Commission*
- *that the BIA undertake a gender impact assessment on all current policies and when considering new ones to ensure that these do not have a differential or discriminatory effect on women*
- *that the Asylum and Immigration Tribunal (AIT) reinstate the IAA Gender Guidelines or that equivalent status is secured for these guidelines such as through the Judicial Studies Board*
- *that the provision of legal aid should be adequate and more widely available*
- *that the BIA should use non-detained processes to decide asylum claims and end the use of detained fast track*
- *that whilst the detention of women continues, the BIA should provide suitable safeguards to ensure women's safety and dignity such as a female staffing ratio similar to in women's prisons*
- *that the BIA provides childcare during asylum interviews*
- *that the BIA implements better monitoring of accommodation providers for asylum seekers to ensure women's safety and security*
- *that women refugees be able to work, and conversion courses be provided to enable them to use their qualifications, especially in areas of skill shortage*
- *that the Government adopt the 'best interest of the child' as a paramount consideration in immigration practice*

Destitution and Return

128. In 2006, reports⁶⁶ on the impact of leaving asylum seekers destitute as a policy of forcing them to leave the UK found that the majority of the respondents came from countries characterised by conflict, political instability or wide spread human rights abuses. Some of those interviewed were pregnant women and mothers of children abroad, as well as women with both physical and mental conditions. A third of the women disclosed that they had been raped. Drastic cuts to legal aid provision, poor standards of interpretation, a culture of disbelief at all stages of the immigration determination process, combined with poor initial decision-making, are contributory factors in the destitution of many asylum seekers. Practical problems, such as the frequency with which asylum seekers are moved around, make it difficult for them to keep on top of their asylum claim, often with disastrous consequences. We believe that the use of destitution as an instrument of Government policy violates the right of asylum seekers not to be subject to cruel and degrading treatment, enshrined in the European Convention of Human Rights. We are concerned that Government policy has created a new and growing underclass that have no contact with the authorities, no access to mainstream services, and little prospect of a solution.

The WNC recommends:

- *that the Government ensure that no refused asylum seeker in the UK should be forced into destitution at the end of the asylum process where appeals have been exhausted*

ARTICLE 10 — EDUCATION

129. Schools do not have the capacity to teach around matters of gender, and senior management do not give this area a high priority in training. Personal, Health and Social Education (PHSE) is not a statutory subject and does not address equal opportunities, gender equality, violence against women, and UN instruments such as CEDAW. A whole generation of teachers have entered the profession with no understanding of issues of gender and equality. Sex education is not mandatory in primary schools, and is inadequate in secondary schools, focusing on biology rather than relationships and equality. There are a growing number of faith schools where these issues are particularly problematic. (Also see ‘Sex and Relationships Education’ – Article 12).
130. The Gender Equality Duty, which places requirements on all schools in respect of gender equality with regard to staff, pupils and the curriculum should have a major impact in promoting gender awareness, identifying discrimination in respect of pay and promotions and should also address the problems of stereotyping in curriculum take-up and careers advice, ensuring that schools implement positive action in respect to addressing these. The Gender Duty became law in April 2007 and every school was required to produce an action plan for implementation by 30th April 2007, however this has not happened. Guidance had only recently become available and planning for training was severely delayed.
131. Since 2002, the Government has been collecting data from maintained primary, secondary and special schools for the first time, enabling information on pupils’ gender, ethnicity, free school meals, special educational needs, English as a first language and ACORN [A Classification of Residential Neighbourhoods] to be matched to their achievement. We think this comparison on gender will reveal a more complex picture of underachievement which can then be addressed. These data are collected annually by schools and should inform work on the gender equality duty.
132. A key factor in gaining and keeping employment, is education. Less than half of young women who are pregnant or mothers can access a full curriculum. 60% of teenage mothers have no qualifications by their early 20s compared with 25% of women who become mothers after their teenage years.⁶⁷
133. The UK has no equivalent to the US law ‘Title IX’, which states that “no person shall, on the basis of sex, be excluded from participation in...any education program or activity receiving Federal financial assistance”, and thus ensures that schools’ expenditure on sport benefits girls and boys equally. As a result, the gender impact of spending is not monitored, and there is overwhelming anecdotal evidence that the majority of funding in the UK goes on boys’ sports. The definition of sport should be widened to include physical recreation, such as aerobics and dance, to ensure women’s activities are included and funded equitably. The Government funds sport extensively, but fails to set equality targets to require this public money to benefit women as well as men. The continuing emphasis on competitive sports fails girls in particular. Further, from a health perspective, a narrow vision of sport as competitive team sports also particularly implicates overweight teenage girls who are often able to increase their activity levels through aerobics and dance with less embarrassment than through traditional team sports.

⁶⁷ YWCA (2004) *Too Much Too Young? Understanding Teenage Pregnancy and Young Motherhood in England and Wales*. YWCA: Oxford.

134. The National Union of Teachers (NUT) survey of teachers' experience of sexism and harassment in schools and colleges, of which 82% of respondents were women, found that nearly one in five primary school teachers and two-thirds of secondary teachers have been subjected to sexually abusive language by pupils. Nearly 75% of secondary teachers and 30% of primary teachers have encountered such language being used by pupils against each other. Slightly more than a fifth of primary teachers and nearly two-thirds of secondary teachers describe the language as sexist bullying⁶⁸
135. A recent report by Womankind Worldwide found that there is an alarming prevalence amongst young people in schools of attitudes that reinforce violent behaviours, revealed in the way that young people think about gender roles and stereotyping⁶⁹. This report also revealed however that the majority of young people and teachers welcomed the opportunity to discuss issues of gender stereotyping and sexual bullying. Womankind Worldwide has piloted excellent work on addressing these issues through their *Challenging Violence, Changing Lives* programme, and should be drawn upon for the inclusion of these issues in the PHSE curriculum.
136. Young lesbian, bisexual, and transgender girls, feel socially isolated at school, just over half of schools have reported homophobic bullying in the last term; but only 6% of schools had bullying policies that specifically address the issue of homophobic bullying.⁷⁰ As a result, these young women are especially at risk of social exclusion that may lead to mental health problems, self-harm and suicide.
137. Training for teachers and careers advisers does not help girls to avoid choosing subject courses and careers that are poorly paid, nor does it require teachers to consider or acknowledge the importance of gender issues. Although the Government 'Connexions' scheme, which aims to 'remove barriers to learning and progression', offers comprehensive careers information and advice for young people (aged 13-19) through its website, telephone helpline and personal advisors who work in schools, the service offers no specific careers advice for BME girls, who will experience particular obstacles in the workforce in relation to race and gender. In addition, teachers and career advisors often hold stereotypical views about Muslim girls lacking ambition and not being allowed by their families to pursue higher education and careers⁷¹.
138. At age 16, many subjects are taken by a similar number of girls and boys; however this changes at A Level/Higher Grade, where, for example, 71% of students taking examinations in English Literature are women and 76% of students taking Physics are men⁷². More extreme segregation is seen in apprenticeships. Over nine-tenths of hairdressing apprentices are women whilst at least 98% of apprentices in construction, the motor industry and plumbing are men. Almost as extreme is the subject segregation in Further education (FE) and higher education (HE). For example, in engineering and technology 87% of FE students and 86% of HE students are male⁷³.
139. Clear and detailed information on comparative rates of pay across all occupations should be made readily available from the earliest years of secondary education for pupils, parents and their teachers. This would help to reduce the gender pay gap by bringing more women into careers such as engineering and construction where it is possible to earn more money as an

⁶⁸ Institute of Education for The National Union of Teachers (Nov 2006) 'A Serious Business: An NUT survey of teacher's experience of sexism and harassment in schools and colleges'

⁶⁹ *Challenging Violence, Changing Lives: Gender on the UK Education Agenda, Findings and Recommendations*, Womankind Worldwide, 2004-7

⁷⁰ Mullen, A. (2001) *Inclusive Schools: Ending the Exclusion of Lesbian, Gay and Bisexual Youth*. Yorkshire MESMAC: Bradford.

⁷¹ Muslim Women's Network/Women's National Commission (2006) *She Who Disputes: Muslim Women Shape the Debate*.

⁷² The Equal Opportunities Commission *Facts about Women and Men In Great Britain, 2006*, The Equal Opportunities Commission, Manchester.

⁷³ *ibid*

apprentice than in social care. Within three years of graduation, women's pay is already 15% less than men's, even when they have achieved the same class of degree in the same subject, and this gender gap widens the older women get⁷⁴. Positive steps need to be taken to address this inequality.

140. The Government published its response *A Strategy for Women in Science, Engineering and Technology* (SET) on 28th April 2003 to address the issues outlined in SET Fair⁷⁵. We welcome the main initiative to come out of the Strategy which was the establishment of the UK Resource Centre for Women (UKRC) in Science, Engineering and Technology. The UKRC provides practical help and support to girls and women in SET, including those thinking of a career in SET and those taking a career break. Research shows that from an early age, girls are alienated from science and technology subjects; educational subject choices determine higher education choices and future employment possibilities. In higher education, men still dominate SET and SET-related courses (particularly in Physics, Mathematical Sciences, and IT) and the numbers of women are not increasing significantly, if at all⁷⁶. More initiatives are needed to attract women and girls into this area.
141. This year, the secondary school curriculum is being reviewed and a major consultation process is in place. Teaching of the new curriculum will start in the Autumn of 2008, offering a greater choice of subjects and vocational diplomas. However, choices must be made earlier, so without good advice and guidance, the choices girls make at 14 will be even more stereotyped than those made at 16 and 18 with girls choosing courses that lead to female dominated low paid jobs. The impact of these curricular changes must be carefully monitored.
142. The relation between the gender pay gap and the high level of student debt for university studies deters young aspiring women more than their male counterparts from higher education. With proposed top-up fees, student debt could rise to £26,000. It would take a woman earning £36,000 with two children, 19.5 years to pay back her student loan. In contrast, a man earning the same salary would take 15 years to repay.⁷⁷
143. In England women are under-represented in management positions in schools. 31% of secondary heads are female.⁷⁸ Out of 425 FE colleges, only 89 women are Principals. Out of the 170 heads of HE institutions (including universities as well as specialist colleges), only 13% are women. Ten women are vice-chancellors of universities, amounting to just 8% of the total high level posts; fewer women than men have tenured posts.⁷⁹
144. The establishment of devolution across the UK has resulted in varying levels of equality, due to different initiatives taking place in the devolved parts of the UK. In Wales, for example, the higher education institutions are being encouraged to undertake equal pay reviews, following guidelines from the Equal Opportunities Commission; and in Scotland, legislation puts a duty on education authorities to prepare an annual statement describing how they will encourage equal opportunities in school education. These initiatives, and many others that exist in the devolved areas, should be implemented across the whole of the UK.

⁷⁴ <http://www.nusonline.co.uk/campaigns/womenscampaign/Othercampaigns/268910.aspx>

⁷⁵ SET Fair: A Report on Women in Science, Engineering and Technology from the Baroness Greenfield CBE to the Secretary of State for Trade and Industry (2003)

⁷⁶ Available at: <http://www.setwomenstats.org.uk/set4statistics/summary.htm#3>

⁷⁷ <http://www.nusonline.co.uk/campaigns/womenscampaign/Othercampaigns/268910.aspx>

⁷⁸ Powney, J. et al. (2003) *Teachers' Careers: The Impact of Age, Disability, Ethnicity, Gender and Sexual Orientation*. Department for Education and Skills: London

⁷⁹ 'Serious Lack' of Women in Academia in *The Guardian*. 18/03/2004

145. The Qualifications Curriculum and Assessment Authority for Wales published guidelines on equal opportunities, but other education documents emanating from the Welsh Assembly Government need to give these prominence. Preparation for the workplace is the main focus, but stereotyped subject and career path choice, which confines the majority of girls to low paid employment, must be addressed.
146. Although there has been progress in the number of women in head teacher positions within primary schools, in secondary schools only 19.1% of heads are women⁸⁰. There are 70 women university professors out of a total of 650. There is only one female Vice Chancellor of a university in Wales.

The WNC recommends:

- *that Government include a clear gender aspect in the citizenship programme currently being embedded into the education system*
- *that addressing violence against women, including domestic violence and sexual bullying, be included in the compulsory curriculum*
- *that the Government encourage the sharing of local authority good practice regarding the educational provision for pregnant teenagers and teenage mothers*
- *that the allocation of funding and resources be monitored to ensure equitable provision for girls' organised physical recreational activity and sport in schools*
- *that careers advice must be better monitored to assess trends in girls' career choices as a way of reducing the gender pay gap*
- *that training is needed for those delivering careers advice on the specific needs of BME women*
- *that in order to retain women and girls into SET higher education courses and into SET occupations the image of Science, Engineering and Technology needs to be more positive*
- *that the Government ensure awareness training on gender equality in initial and in-service teacher training*
- *that gender- disaggregated statistics on education be made widely available in order to inform work on the Gender Equality Duty*
- *that the Government develop indicators of progress on gender equality in education, and the impact of girls' curricular and career choices*

ARTICLE 11 — EMPLOYMENT

Employment

147. Women in the UK today hold a considerably disadvantaged position in the labour market, illustrated by continuing inequalities over pay (see 'equal pay' section below). A number of causes for women's disadvantaged position in the market place have been identified: **interruptions in employment to care for family members** - significant numbers of women suffer downward occupational mobility between their highest-level occupation before having children and their current one, where a *lack of flexibility* at work is one of the major reasons that women find it hard to combine caring and employment and where a *lack of affordable childcare* hinders this flexibility further; **occupational segregation** - there is a pronounced concentration of women and men in different occupations, with women over-represented in traditionally female, lower paid occupations; **part-time employment** – there are a distinct lack of quality/managerial/professional part time jobs where almost all part-time work is at the bottom end of the labour market. Most part-time workers are working below their capacity but

⁸⁰ A Statistical Focus on Men & Women in Wales 2007. Statistical Directorate, National Assembly for Wales.

are stuck with outdated skills or no skills; the **skills deficit** - women on average have fewer educational qualifications than men and although young women have recently managed to close this gap, the average woman is still less qualified than the average man, and; **discrimination** – where women are discriminated against simply for being female.

148. Minority ethnic, disabled, lesbian, bisexual and transgender women are doubly disadvantaged in the labour market. Pakistani and Bangladeshi women have the lowest rates of participation in the labour market of any group in Britain at 22% and 18% respectively, around a third of the employment rate of white British women (66%), although women born in the UK are twice as likely as those born abroad to be in paid employment. Black Caribbean women are twice as likely to be unemployed as white British women.⁸¹ BME graduates experience unemployment at a seriously disproportionate rate to white graduates. The 2007 Equal Opportunities Commission's *Moving on Up?* reports for both England and Scotland both identify that this is not substantially due to either lack of women wishing to enter the workforce, nor to parents preventing daughters from career options/further education. Two-thirds of lesbians and gay men surveyed reported workplace discrimination including dismissal, physical and sexual assault, ridicule and verbal abuse.⁸²
149. Women over 50 in the labour market face disadvantages of gender and age. Many women who return to work after taking time off to look after children suffer permanent disadvantage: although 'entry level' work is available for older women, opportunities for promotion or recruitment at higher levels are restricted⁸³. Older women have less opportunity to benefit from the equal employment strategies and are more likely to occupy jobs with low status and limited rewards⁸⁴. 24% of women in their 50s have caring responsibilities⁸⁵.
150. The progress on women's representation at senior levels across a wide range of sectors and professions is painfully slow and in some cases has gone into reverse. Women represent only 10% of directors at FTSE 100 companies and ethnic minority women make up just 0.4% of FTSE 100 directors. Women make up only 35.5% of public appointments, 21% of local authority Chief Executives, 10% of senior judges and 0.4% of senior ranks in the armed forces. On average, women hold just 29% of leadership positions in politics, 24% of such positions in the public and voluntary sectors and only 14% of such positions in business.⁸⁶
151. There is still a substantial gap between male and female levels of entrepreneurial activity in the UK and, despite an increased policy focus in recent years, little change in the underlying statistics. We welcome the Women's Enterprise Task Force which was launched in November 2006 and will be prioritising financial literacy, regional business support, supplier diversity and improved data disaggregation.⁸⁷
152. We welcome the establishment of the 'London Women's Initiative', run by the Government's Learning and Skills Council's 'Train to Gain' service. A large government subsidy has been made available for this initiative which trains women in work/women returning to work to Level 3, whatever their current level of education. This women only, London pilot will substantially reduce training budgets for business, and in some circumstances 100% of the training bill can be paid to the employer.

⁸¹ Equal Opportunities Commission (2007) *Moving on up? Ethnic minority women at work*, Equal Opportunities Commission

⁸² Mayor of London, *Capital Woman*. London

⁸³ Age Concern's response to the Call for Evidence of the Women and Work Commission (2005)

⁸⁴ *The Health and Work of Older Women: a neglected issue*. Trade Union Congress and Pennell Initiative for Women's Health (2002) Professor Lesley Doyal, University of Bristol.

⁸⁵ Age Concern (2005), *op cit*

⁸⁶ Equal Opportunities Commission (2007) *Sex and Power: who runs Britain?* Equal Opportunities Commission: Manchester.

⁸⁷ Prowess, www.prowess.org.uk, 2007

- 153.** Sector Skills Councils (SSCs) are independent, strategic organisations that have been established to influence how training is delivered in the UK. We welcome the success of nine Sector Skills Councils (SSCs) in running a two-year initiative, ending in March 2008, that piloted innovative ways to enable women to access non-traditional jobs across a wide range of industries, including the construction, automotive and science and engineering industries. Each of the nine SSCs developed a unique project to address the specific barriers faced by women in their sector, based on evidence from their sector skills agreement and through consultation with employers. All the projects focussed on the training, development and support of individual women, helping them progress towards their long term career goals.
- 154.** Migrant women are poorly protected in employment. Many women who enter the country as asylum seekers are not allowed work permits and are forced to find illegal work, without the protection of employment law. Domestic workers are particularly at risk of abuse by employers. Undocumented women are at risk of sexual and other violence and threats and intimidation by employers.
- 155.** In order to be able to enter as a non-European Economic Area (EEA) labour migrant into the UK, individuals must meet enough criteria in a points-based system (PBS) to qualify. The points system indirectly favours men over women: extra points can be scored if a person is under the age of 28, and for higher earnings potential. Here women face discrimination as, due to factors such as childrearing and educational and professional barriers, women are not able to score as many points in these two categories. Overall, this means that migrant women who do manage to enter the UK to work legally are being shunted into the lower skilled category with fewer rights attached; e.g. limited residence for twelve months or less. The PBS also increases the likelihood of women being trafficked into the UK (Reference Article 6:69)
- 156.** The lack of public transport creates an obstacle for rural women to obtain flexible and well paid employment, since it is hard for them to travel further. Women represent 50% of rural employees and 31% are self-employed.⁸⁸ Lack of good quality affordable childcare creates particular problems for all mothers except the very well paid, and in particular those who are lone parents and wish to work.
- 157.** 30,000 women are dismissed from their jobs each year because of their pregnancy. Only 3% of those who experience a problem lodge a claim at an employment tribunal.⁸⁹ The Equal Opportunities Commission (EOC) received more calls from women facing problems at work because of their pregnancy, than on any other subject. An EOC's study found that nearly 25% of women who made an employment tribunal claim had been dismissed within hours of telling their employer about their pregnancy and one in five women returning from maternity leave were given lower grade jobs. Pregnancy and maternity-related discrimination is occurring despite the fact it is unlawful.⁹⁰
- 158.** Under employment law there are no provisions for class actions; this means that every woman has to lodge proceedings individually. If a group of women decide to act in conjunction or if an individual woman is successful in her equal pay claim, the employer is not entitled to apply that decision to other women workers who may also have a legitimate claim but who have not come forth with legal proceedings.

⁸⁸ www.countryside.gov.uk/NewEnterprise/Economies/Women.asp

⁸⁹ Equal Opportunities Commission

⁹⁰ Equal Opportunities Commission, *Pregnancy Discrimination at Work: A Review*. Equal Opportunities Commission: Manchester, 2004

159. Lawyers, employers and employees alike all agree that as it currently stands, employment legislation and guidance is too complicated. This greatly hinders women who wish to clarify their rights or to pursue legal action in regards to gender based discrimination at work. Employment Tribunals originally designed for the average worker to take their case and be heard, have grown into a legal mind-field which a claimant in person couldn't hope to tackle. Employment Tribunals need to be re-structured to enable a single representative to take forward a claim on behalf of a group experiencing the same form of discrimination, rather than requiring each claimant to make a lengthy individual claim.
160. The EHRC is the main source of assistance for women experiencing gender-based discrimination in employment and is well equipped to take legal action on behalf of women experiencing gender based discrimination at work where there are strategic opportunities to push the boundaries of the law. However, the EHRC is unable to provide legal representation to every woman who seeks its assistance.
161. High levels of violence against women, particularly domestic violence, impacts on women's employment: in 2003, 21% of victims took time off work, while 2% lost their jobs.⁹¹ The cost of domestic violence against women in England and Wales alone is £23 billion a year.⁹² Violent partners often attempt to isolate women, refusing to let them work outside the home; women may lose work through injuries. In a 2003 survey of TUC members, 51% of respondents had experienced domestic violence; 88% of respondents were women. 46% stated that domestic violence had affected their ability to do their job, manifesting itself through lack of confidence, nervousness, repeated crying, lack of sleep, lack of concentration and a loss of interest in their job. 49% of those affected by domestic violence reported having taken time off work because of it⁹³.
162. A 1999 survey found that 27% of people had been sexually harassed at work.⁹⁴ A recent report⁹⁵ showed that disabled people were more five times more likely to experience sexual harassment at work. Minority ethnic women, lesbians and transgender women suffer additional harassment and discrimination. In 1993, a police survey with a response rate of 65% found that nearly all the policewomen participating in the survey had experienced some form of sexual harassment from policemen.
163. High rates of sexual harassment have been found in the armed forces. Independent research for the Ministry of Defence found that almost all (99%) of the servicewomen who participated in the research had been witness to sexualised behaviours (jokes, stories, language and material) in the last 12 months, with two-thirds (67%) having had such behaviours directed at them personally and 15% having had a "particularly upsetting" experience. The younger the women, the more likely they were to have experienced unwelcome sexual behaviours; 77% of women under 23, compared to 44% of women in their forties⁹⁶.
164. We welcome the Women and Work Commission's recommendation that the Government should promote the job opportunities of the London 2012 Olympic Games to women, and

⁹¹ Home Office, Research Study 276. Domestic Violence, Sexual Assault and Stalking: Findings from the British Crime Survey, 2004

⁹² Walby, S., The cost of Domestic Violence, 2004

⁹³ The Trade Union Congress, Trade union members experience of domestic violence: Just a domestic?, 2003

⁹⁴ Equal Opportunities Commission, Sexual harassment in the workplace: A literature review. Centre for Diversity and Work Psychology, Manchester Business School, University of Manchester, 2007

⁹⁵ Grainger, H. and Fitzner, G., Fair treatment at work survey 2005. Employment Relations Research Series No. 63. Department of Trade and Industry: London, 2006

⁹⁶ Rutherford, S., Schneider, R. and Malmsey, A., Agreement on preventing & dealing effectively with sexual harassment: quantitative & qualitative research into sexual harassment in the armed forces. Ministry of Defence/Equal Opportunities Commission, 2006

highlighted the potential for women to train in non-traditional occupations, especially those with skills shortages such as construction, transport and communications.

165. 65% of women of working age in Northern Ireland are in paid employment, 5.2% lower than in Great Britain. 73.4% of working age males are in employment. 84% of part-time employees in Northern Ireland are women; 38% of female employees work part-time, but only 7% of men.

The WNC recommends:

- ***that the Government require companies to engage in regular contact with those employees on maternity leave, for example, through regular work updates and invites to key meetings, in order to ensure that upon returning such women are able to take up employment of an appropriate level***
- ***that the Government fund and develop more focused training opportunities for women, building on the work done by Train to Gain and the Government's initiative via Sector Skills Councils***
- ***that the Government actively promote quality part-time opportunities through establishing such positions in the public sector***
- ***that the Government simplify existing employment legislation and guidance***
- ***that the Government enable the re-structuring of Employment Tribunals in order that class actions can be taken***
- ***that the Government increase penalties for pregnancy dismissals***
- ***that the Government support employees who are victims of gender-based violence, working with the trades unions to extend the role of Equality representatives to include VAW representatives***
- ***that the Government commission regular national surveys to assess the prevalence and trends of sexual harassment in the workplace***

Equal pay

166. The current legislation on equal pay is too complicated and confused. It was mostly drafted almost 40 years ago and has been amended and re-amended ever since with little coherence. In particular, it is insufficient for dealing with cases of multiple-discrimination, for example for a woman who is also black or disabled (see Article 1).

167. Despite nearly 40 years of equal pay legislation, the gender pay gap in the UK is still one of the highest in Europe. Women who work full-time still earn only 83% of men's wages, and 61.5% of men's part-time hourly pay.⁹⁷ There are various reasons for this, including poor pay progression, occupational segregation, a lack of flexible work and affordable childcare and poor quality part-time work where women working part-time earn 30% less than those working full-time. Women earn less on average, even when they have the same class of degree in the same subject as men, earning 15% less than men who have the same qualifications within five years of graduation. In the private sector, men working full-time earn 23% more an hour than their female counterparts and 45% more than women working part time. The voluntary sector, which is considered to lead the way in promoting equality, fares little better in terms of a gap; men working full-time earn 13% more an hour than their female counterparts and 34% more than women working part-time.⁹⁸ The average salary of women working in the voluntary sector lags more than £3,400 behind that of men.⁹⁹

⁹⁷ Fawcett Society, www.fawcettsociety.org.uk/index.asp?PageID=321 , 2007

⁹⁸ *ibid*

⁹⁹ Why Women? Campaign, Women's Resource Centre, www.whywomen.org.uk

168. There has been an enormous increase in recent years in the number of women in paid employment. However, shopping, eldercare, and childcare continue to be perceived as a woman's responsibility and surveys continue to show that men spend less than one fifth of the time spent by women on domestic work.
169. Ethnic minority women face additional barriers as they tend to be clustered in a narrow range of workplaces, jobs, sectors and local labour markets which affects their levels of pay and promotion opportunities. Bangladeshi, Pakistani and Black Caribbean women continue to be under-represented in senior level jobs where racism, sexism and anti-Muslim prejudice are barriers to integration and promotion. Pakistani women working full-time face the biggest pay gap, earning 28% less per hour than white British men working full-time. Bangladeshi women earn on average nearly £5 less per hour than white British men working full-time. Bangladeshi, Pakistani and Black Caribbean women with qualifications at level 3 and above (A' level or equivalent) face substantial pay gaps compared to similarly qualified white British men.¹⁰⁰
170. The Government reports that it requires the Civil Service to conduct equal pay audits, which took place for the first time in 2003. However, as the Government did not publish them, it is difficult to assess whether this has been a valuable initiative or not. The gender pay gap in the Civil Service stands at 22%.¹⁰¹ Moreover, the public sector pay gap goes well beyond the Civil Service into a large number of Government funded organisations that employ mainly women. The Government has consistently refused to commit to providing the additional funds local authorities and others require in order to remove historic gender pay inequalities.
171. We welcome the Government's recent NHS 'Agenda for Change', a new pay system that ensures equal pay and a clearer system for career progression, which has been adequately funded and implemented. However the local government 'Single Status Agreement', which also places the principles of equal value at the heart of a new grading structure, has not been adequately funded to fully address substantial historic pay inequities. Although we welcome this initiative, greater recognition is needed by the Government of their legal responsibility to ensure women's legal entitlement to equal pay. The Government also refuses to legislate to require private companies to carry out equal pay audits.
172. We welcome the Women and Work Commission's recommendations made in their report: *Shaping a Fairer Future*¹⁰², but would like to see mandatory equal pay audits; measures to engage men with work-life balance issues; and action to tackle the long hours working culture, which limits the ability of women with caring responsibilities to compete equally with male colleagues.
173. We welcome *Towards a Fairer Future*¹⁰³, the Government's response to *Shaping a Fairer Future*, which goes some way toward implementing the recommendations of the Women and Work Commission.
174. *Bridging the Gap Together*, shows that even after 30 years of equal pay and sex discrimination legislation there is still a gender pay gap in Wales. Across Wales the hourly wages of women in full time employment are around 82% of a full-time male worker. The hourly gender pay gap between women and men is 12%, increasing to 31% for women working part-time. The

¹⁰⁰ Equal Opportunities Commission, *Moving on up? Ethnic minority women at work*, Equal Opportunities Commission, 2007

¹⁰¹ Cabinet Office, www.civilservice.gov.uk/management/statistics/reports/index.asp, 2005

¹⁰² *Shaping a Fairer Future*, The Women and Work Commission, 2006

¹⁰³ *Towards a Fairer Future: Implementing the Women and Work Commission recommendations*, Women and Work Commission, April 2007

weekly earnings gap is around 22%¹⁰⁴. Almost half the workforce in Wales is female; 4 in 10 women work part-time, compared to 1 in 10 men. Women are five times more likely to do so for family reasons. *The Gender Pay Gap in Wales* shows that there are significant differences in pay depending on the type of employment, with the greatest disparities being in women's managerial and skilled manual work, for which women earn 20.5% and 24.5% less respectively. Women are clustered in low paying sectors: 48% of women work in administrative and service work, compared to 13% of men; 5% of women work in skilled trades and semi skilled manual work, compared to 37% of men. This goes a long way toward explaining the pay gap.¹⁰⁵ Research by the Equal Opportunities Commission confirms that discrimination remains a major cause. Traditional attitudes, job segregation and stereotyping in work placements and training, for example, in modern apprenticeships, needs to be consistently challenged. The long-term undervaluation of women's traditional work will be exacerbated by the growth of the 'care industry' unless there is radical intervention.

175. In Northern Ireland, women's median hourly earnings, excluding overtime, are 95.8% of men's. Women working part-time earn 30% less than full-time men. However, the average gender pay gap masks very wide variations in specific industrial sectors and occupations, and the greater degree of part-time working women compared to men. Equal pay audits should be part of public authorities' obligations under Section 75 of the Northern Ireland Act.

The WNC recommends:

- ***that the Government implement the recommendations of the Women and Work Commission, with resources and regular Impact Assessments***
- ***that the Government impose mandatory pay audits for all organisations to reveal pay inequalities***
- ***that the Government simplify existing equal pay legislation***

Work- life balance and childcare

176. There is a lack of available and affordable childcare across the UK. There are 3.8 children under 8 for each childcare place in England.¹⁰⁶ The typical cost of a full-time nursery place for a child under two is £152 a week in England, amounting to over £7900 a year; a rise of 6% on last year. In some parts of the country, particularly London and the South East, the cost of a nursery place is much higher - typically £205 a week in inner London or £180 a week in the South East. The highest nursery cost identified in the Day Care Trusts 2007 survey was £375 a week, over £19,000 a year. Two thirds of Children's Information Services in England say parents report a lack of affordable local childcare. Help with childcare costs comes through the tax system which we recognise has greatly helped many people, particularly single mothers; however, the average award through the childcare element of the Working Tax Credit is only £49.80 a week.¹⁰⁷ There is no extra help for parents with three or more children, which disproportionately affects some BME communities.¹⁰⁸ In England in 2006 there were 195.5 day care places per 1,000 children aged 0-4, compared with 92.5 places per 1,000 children aged 0-4 in Northern Ireland in 2005.

177. The combination of low wages and the fact that the working tax credit (WTC) does not cover all childcare costs means that many mothers are financially disadvantaged when taking up paid

¹⁰⁴ Bridging the Gap Together: a collaborative approach to addressing the gender pay gap in Wales, Chwaraeteg, 2006.

¹⁰⁵ A Statistical Focus on Men and Women in Wales, 2007 Edition, Statistics for Wales.

¹⁰⁶ Equal Opportunities Commission, *Facts and Figures about Men and Women in Britain*, 2006.

¹⁰⁷ www.daycaretrust.org.uk, 2007

¹⁰⁸ HMRC 2006 Child and Working Tax Credit Statistics

employment. This can, in part, explain the low take up of the WTC in the London region, with only 14% of all families benefiting, compared to an average of 20% in England and Wales. Less than 25% of lone parent families in London were receiving the WTC in July 2003, compared with an average of over 41% in England and Wales.¹⁰⁹ WTCs also create budgeting difficulties for mothers because childcare costs have to be paid up front yet the WTC is paid in arrears.

178. 17% of working women in the UK do not earn enough to pay National Insurance, compared to 4% of men. This means that they are not entitled to certain benefits, such as the contribution-based Jobseeker's Allowance, Incapacity Benefit and State pensions.¹¹⁰ Women are more likely to have an interrupted National Insurance record due to a broken employment history caused by taking time away from work to raise and care for a family. Consequently, this restricts the benefits to which they are entitled.¹¹¹ More women claim benefits, such as Income Support, that do not require a National Insurance record, than men. However, because Income Support is means-tested, if a woman's partner is working, she will not be entitled to the benefit. If poverty were measured on the basis of individual income, 52% of married women would be under the income support poverty line, compared to 11% of men.¹¹²
179. We very much welcome the extension made in April 2007 to Statutory Maternity Pay (SMP), which is now payable for 39 weeks. SMP is paid at 90% of the average weekly earnings for the first six weeks and at a flat rate of £112.75 per week for the remaining period (or 90% of the average earnings if this is less). The Government mainly meets these costs.¹¹³ Good childcare is very expensive; the £300 per month allowance for two or more children is of benefit, but falls short of the real need.¹¹⁴
180. Fathers have a new statutory right to two weeks' paid paternity leave; SMP has increased to 39 weeks and new fathers can take up the last three months of this leave if the mother has returned to work. This is welcome, but whilst paid leave remains at only £112.75 a week, which is less than the minimum wage at 35 hours per week, fathers will choose to take annual leave on full pay where they can. While men continue to be paid more than women it makes little sense for the father to take this leave. There is little evidence of acceptance by employers of men having time off for family responsibilities and whilst we welcome these improvements to maternity leave and pay, the introduction of adoption leave and pay, and rights to flexible working, we would like these rights further improved.¹¹⁵
181. We would like to see an expansion of children's centres, which integrate nurseries, health services and parental support; at present there are only 20 such centres in deprived areas. Another Government initiative, which has had a beneficial effect especially for teenage mothers in deprived areas, is the Sure Start initiative. Evaluation indicates that it has created a considerable administrative burden, but the focus on poverty and child caring skills with access to good quality play, health speech therapy and community integration is commended. Such investment is likely to have wide-ranging social benefits and should be more widespread.
182. We welcome the extension of the right to request flexible working to those caring for a child under six or a disabled child under 18, which has already had a huge impact. 47% of new

¹⁰⁹ Greater London Authority, www.london.gov.uk/mayor/strategies/childcare, 2003

¹¹⁰ www.lapa.org.uk

¹¹¹ *Ibid*

¹¹² *Ibid*

¹¹³ Daycare Trust, www.daycaretrust.org.uk, 2007

¹¹⁴ Directgov, www.direct.gov.uk, 2007

¹¹⁵ www.fawcettsociety.org.uk

mothers now work flexitime, compared to just 17% in 2002, and 31% of new fathers now work flexibly; almost triple the number in 2002¹¹⁶. We also welcome the recent extension of this right to carers of adults. However, the need to work flexibly does not stop when a child starts school and other groups of employees may ask to work flexibly, but employers are under no duty to even consider their request. Parents and carers who want to work find that few jobs are offered on a part-time basis, but they cannot always take on the full-time role even if they have skills to offer. A removal of the 26 weeks' service requirement would make a significant difference for many parents of disabled children looking for work that fits with their caring responsibilities.¹¹⁷

183. Northern Ireland has one of the lowest provisions of childcare, not only within the UK but within Europe as a whole. Eight years on from the publication of the childcare strategy, *Children First*, Northern Ireland has only 92.5 day nursery places per 1,000 children aged 0-4 (2005), while in England the corresponding figure is 195.5 (2006), more than double¹¹⁸. Additionally, mainstream funding for childcare in Northern Ireland has been heavily reliant on European funding which will not be sustainable in the long term. A recent survey carried out for the Equality Commission found that nearly a quarter of employed mothers said that they were constrained in the hours they worked by childcare problems, and a further 20% said that they were constrained in their choice of job by childcare needs. A review of *Children First* in 2005, recommended a re-shaping of the childcare vision for Northern Ireland, including the allocation of mainstream funding to the childcare strategy. While we welcome this, there is enormous ground to make up in comparison with the rest of the UK.¹¹⁹

The WNC recommends:

- ***that the supply of good quality and affordable childcare facilities be extended to meet the demand***
- ***that the Government continue to strongly consider the case for extending flexible working rights to parents of older children***
- ***that the Government reviews the quality of childcare (nursery and after school provision) and considers adopting some of the good practice utilised in Scandinavian countries in relation to raising the national standards and adopting a more holistic programme for children that includes nurturing, education and development***
- ***that the Government ensures long term investment for the Sure Start initiative***

Pensions

184. Two thirds of pensioners are women, and their average income is 53% of men's. For every pound of income received by men in a pensioner couple, women receive less than 32 pence.¹²⁰ Currently around 30% of women reaching state pension age are entitled to a full basic pension as compared to 85% of men.¹²¹ Only 38% of women of working age are paying into private pensions, against 46% of men.¹²² Female single pensioners are one of the poorest groups of the

¹¹⁶ *Towards a Fairer Future: Implementing the Women and Work Commission recommendations*, Women and Work Commission, April 2007

¹¹⁷ Working Families, Policy Briefing on Flexible Working, 2006

¹¹⁸ *Women in Northern Ireland* Department of Enterprise, Trade and Investment, September 2007.

¹¹⁹ Equality Commission Northern Ireland,

¹²⁰ Fawcett Society, www.fawcettsociety.org.uk/index.asp?PageID=21

¹²¹ Department for Work and Pensions (Nov 2006) *The Gender Impact of Pension Reform*

¹²² National Statistics, www.statistics.gov.uk/downloads/theme_social/Social_Trends36/Social_Trends_36.pdf (table 5.23), 2007

older population - one in five live in poverty and 75% of pensioners receiving income related welfare payments are women.¹²³

185. We welcome the measures to improve women's entitlement to the basic State Pension (bSP), which will not take effect until 2010. However, the 6th Report (paragraph 195) states that this has been financed by raising the age that women can get their pension from 60 to 63. The Gender Impact assessment of these proposals should be published ahead of the legislation.
186. The Government has failed to tackle the multiple causes of this extreme inequality. The bSP is calculated on contributions made over a lifetime's continuous employment. Women, whose employment is broken by raising a family or caring for relatives, cannot make the required contributions. Women may take several part-time jobs to make ends meet but are not allowed to make contributions calculated on their aggregate wage, even if they could afford it. Women who earn low wages are not allowed to contribute (nor could they afford to) and if contributions are made for fewer than ten years no pension is paid at all. The welfare system was also designed on the assumption that women would be able to rely on their husband's pension, and thus were able to opt to pay lower contributions; as a result widows and divorcees make up the poorest pensioners.
187. The Government has adopted a policy of transferring the risk attached to pensions from the State to individuals by encouraging private provision. This has a particularly savage impact on women, who earn less throughout their lives than men and are less able to pay towards a pension. Even relatively affluent women graduates leave university with loans to repay; they then take out mortgages, and at the same time may start a family. All this reduces their ability to make provision for a pension. Further, private pensions prove less stable than state pensions in an uncertain financial market. This instability further impacts upon women.
188. Disabled and minority ethnic women are doubly disadvantaged by low pay and discrimination. Women who have been subject to domestic violence (this affects one in four women in the UK) are often subject to a pattern of coercion by their partner, which includes control over their employment and their finances, leaving them unable to provide for the future.
189. We welcome the UK's civil registration of gay and lesbian couples which has come into force, but coverage of same-sex couples within pension schemes is not mandatory.
190. The average weekly state retirement pension for women in Northern Ireland is just over 75% of men's. Much of this inequality stems from women's work patterns and we are disappointed that this has not been adequately addressed by the Government's Pensions Policy.

The WNC recommends:

- ***that the Government gives greater recognition to caring as employment in terms of basic State Pension rights***
- ***that the Government increase the value of the basic State Pension***
- ***that a comprehensive Gender Impact Assessment of the proposed basic State Pension reforms be published before their implementation in 2010***
- ***that the Government addresses the gap in women's contributions towards private and occupational pension provision***

¹²³ Fawcett Society, www.fawcettsociety.org.uk/index.asp?PageID=21.

- *that the Government ensures that the proposed National Pension Saving Scheme is designed with women's employment trends in mind*
- *that the Government reduce the lower earnings limit, and allows low earnings from different jobs to be aggregated, in order to bring more low paid working women into the national insurance system*
- *that the Government develop a scheme where carers can count benefits paid to sick relatives as their earnings for pension purposes*
- *that, as few women can afford private insurance, the move to remove statutory survivor benefit should be reconsidered*

Women in Medicine

191. There is only one female head of a medical school, and only 11% of medical professors are female, despite a 70% intake of female medical students and women constituting over 40% of graduating doctors for at least 20 years¹²⁴ (CHMS, 2006). Gender-specific data for institutions is poor but as of 2006, Oxford was one of five medical schools with no female medical professors.¹²⁵
192. There are two major areas of concern for career progression for female medics; the lack of available childcare and lack of flexible training. In 2006, the Department of Health withdrew the funding of the “flexible careers scheme”, a programme that helps mostly female medics retain their clinical skills or to retrain to return to work. With the increasing number of women entering medicine, this situation is unacceptable. It is also vital that the Government addresses the need for more part-time employment across the medical profession.
193. We welcome the Government's 10-year blueprint for NHS reform in England which extends the role of nurses to making referrals, running clinics and prescribing drugs. We are delighted Government recognises that this NHS reform is only possible if extra nurses are recruited. However, more support for women with domestic commitments; childcare facilities, and more flexibility in shift systems are still needed.
194. Any money earned by any woman working in the NHS, including doctors, prior to 1988, does not count towards her widower's pension. This lies in stark contrast to the widower's pension of male members, who receive a full pension. Many women are now the main breadwinner, so this situation is unjust and inequitable.

The WNC recommends:

- *that the Government recognises and moves forward on the need to provide flexible childcare for healthcare workers that caters to a broad range of working hours and shift patterns and that includes provision for emergency childcare*
- *that the Government ensures that flexible training is available to all those with children aged 0-16 years and to all those who wish to work less than fulltime*
- *that the Government takes steps to encourage an attitude change in some specialities regarding flexible training in order to encourage more female trainees to take up such specialities*
- *that the Government makes an urgent amendment regarding pensions so that women are treated equally to men regarding widower's pension for all those who worked and made superannuation contributions prior to 1988*

¹²⁴Clinical Academic Staffing Levels in UK Medical and Dental Schools. Council of Heads of Medical Schools and Deans of Dental Schools London June 2006

¹²⁵Sandhu B, Margerison C, Holdcroft A. Women in the UK academic medical workforce. Medical Education accepted for publication 2007

ARTICLE 12 — WOMEN’S HEALTH

Teenage pregnancy

195. Rates of teenage pregnancy in the UK remain the highest in Western Europe. Reduction has been a Government priority; we welcome the Teenage Pregnancy Strategy and its success in reducing the rate of conceptions in England by 11.8% for the under-18’s and by 12.1% for the under-16s. The Teenage Pregnancy National Support Team is actively working with local Teenage Pregnancy Coordinators to reduce these levels.
196. The *Northern Ireland Teenage Pregnancy and Parenthood Strategy and Action Plan 2002-2007* sets ambitious objectives, such as ‘75% of teenagers should not have experienced sexual intercourse by the age of 16’. However, this strategy is technically out of date and has not yet been reviewed. The newly developed Northern Ireland Draft Regional Sexual Health Strategy is now regarded as the latest working document, but still makes no reference to Teenage Pregnancy.

The WNC recommends:

- *that UK-wide Sexual Health and Teenage Pregnancy Strategies are developed with instructions to Departments of Health to develop their locally specific strategy in accordance*
- *that the Government continues to ensure that tackling under-18 conceptions remains a priority and that progress is made in ensuring that young women have access to the interventions, information and services that can help them avoid unintended pregnancies*
- *that in Northern Ireland such strategies must have a cross border dimension i.e. connect with ROI strategies in recognition of the significant part of the region which borders with the ROI*

Sex and Relationships education

197. Despite the acknowledgement that delivery of high quality school-based sex and relationships (SRE) education programmes, linked to contraceptive services, are the most effective method of intervention and prevention in teenage pregnancies¹²⁶, the Government defeated an attempt in Parliament to introduce Personal, Social and Health Education (PSHE), incorporating SRE, as a statutory part of the National Curriculum in England in October 2006.¹²⁷ As a result, SRE is still not a mandatory part of the curriculum in primary schools and only some aspects of SRE are mandatory in secondary schools, which are taught mainly through the science curriculum. The quality and provision of SRE remains extremely variable throughout the UK. The Government still allows parents and school governors to exercise discretion as to whether their secondary school-age children are involved in sex education programmes that go beyond the basic national curriculum, and it has delayed provision of easily accessible contraception in schools. However, we welcome the Government’s recent establishment of a review of SRE, which was announced by the Schools Minister on 25th February 2008¹²⁸.
198. The new Welsh Assembly "Personal and social education framework for 7 to 19-year-olds in Wales" has recently been published. While there are many worthwhile generalisations, the framework contains no direct reference to either sex education or violence against women.

¹²⁶ NHS Health Development Agency. *Teenage Pregnancy and parenthood: a review of reviews* (2003)

¹²⁷ House of Lords Hansard 24th October 2006 Column 1089

¹²⁸ http://www.dfes.gov.uk/pns/DisplayPN.cgi?pn_id=2008_0029

199. In 2000, the Government issued *Guidance for developing contraception and sexual health advice services to reach boys and young men*, and there is an increasing amount of work being undertaken to encourage boys to avoid risky sex by using condoms and going for STI tests. However, far less is known about teenage fathers than teenage mothers and the bulk of research continues to focus on girls, emphasising their role and responsibilities above boys.

The WNC recommends:

- ***that compulsory PSHE, including sex and relationships education, start in primary school for both girls and boys, and is a statutory subject in the curriculum in all secondary schools***

Sexual and reproductive health

200. In recent years there have been improvements in sexual health services in England but overall diagnosis of sexually transmitted infections and HIV continue to rise. This presents a major health challenge for the NHS in maintaining the level of Chlamydia screening and HIV testing. The number of women with HIV is increasing and the high levels of undiagnosed HIV increase the likelihood of the unwitting transmission of HIV to sexual partners.

201. There is a lack of investment and priority for sexual health services and improvements in such services, are inconsistent. In 2006, in the 4th *Disturbing Symptoms* report, 89% of responding clinicians reported increased patient activity, yet only 3% of them reported an increase in staffing. The survey conducted for the report also showed that 73% of respondents said they did not feel that sexual health and HIV were sufficiently prioritised in their local area.¹²⁹ In 2004, the government allocated £300m for sexual health services but many Primary Care Trusts failed to use the money for the purpose it was intended because they did not prioritise sexual health, highlighting a gap between national priorities and local action.

202. Genital chlamydial infection is an important reproductive health problem. 10-30% of infected women develop pelvic inflammatory disease (PID). Many cases, particularly amongst women, are asymptomatic and remain undetected, putting women at risk of developing Pelvic Inflammatory Disease.¹³⁰ We welcome the fact that the National Chlamydia Screening programme offers opportunistic screening for both men and women under the age of 25 and has assisted in reducing pressure on Genito-Urinary Medicine (GUM) clinics. However, the number of people seeking help at GUM clinics is greater than staff can deal with, leading, in some instances, to the replacement of walk-in services by an appointment system¹³¹, in spite of there being a Government target for 48 hour access to GUM clinics. It is essential that community services be extended in order to provide easy access to screening for both young men and women.

203. Contraceptive services within the NHS are also suffering funding cuts, and even closures. In particular, there are concerns about the number of community contraceptive clinics being closed. These closures are having a detrimental effect on the ability of women to make choices about their contraception, not only curtailing women's access but also affecting the training of other practitioners particularly in the provision of long-acting reversible methods. In particular, it is women from BME communities and disadvantaged women who would be most affected by these closures and face barriers to obtaining effective methods of fertility control.¹³²

¹²⁹ fpa, *Disturbing Symptoms* report, 2006

¹³⁰ Department of Health, www.dh.gov.uk, 2007

¹³¹ *Ibid*

¹³² Belfield, Toni & Kishen, Meera, *Contraception in crisis*, *Journal of Family Planning and Reproductive Health Care*, 2006: 32 (4)

204. Aspects of health services linked to sexual violence and forensic evidence require further attention. In areas of the UK without Sexual Assault Referral Centre's (SARCs), female forensic medical examiners are still not available in a timely manner to assist women who have been raped or sexually assaulted. There are no guidelines or standard approach to providing an 'on call' service to fulfil this function, in areas both with and without a SARC. There are no national guidelines for forensic medical examination. This problem is particularly acute in cases where women who have been victims of drug or alcohol-assisted rape, consent to examination whilst still under the influence of these substances.¹³³
205. In recent years there has been a sustained anti-choice campaign in the UK, aiming to diminish the effect of the 1967 Abortion Act. More recently there have been attempts in Parliament to reduce the upper time limit of 24 weeks and to impose mandatory cooling off periods, with a Ten Minute Rule Bill introduced to Parliament in October 2006¹³⁴. Although this Bill was ultimately defeated, it was introduced a second time and although there was insufficient Parliamentary time for it to be debated, further attempts to introduce it are likely. There are concerns that attempts at reducing the time limit will lead to other efforts to reduce the right of women to abortion. A recent poll from the British Pregnancy Advisory Service (BPAS) showed that a majority of the population are pro-choice and that if people were provided with more information about late abortions they were more likely to support the retention of the current 24 week time limit.¹³⁵ 88% of abortions in the UK are carried out in the first twelve weeks of pregnancy. Fewer than 2% are carried out after 20 weeks.¹³⁶
206. The Royal College of Obstetricians and Gynaecologists has expressed concerns that year on year, fewer doctors are training in abortion procedure and that increasing numbers are taking advantage of the 'conscientious objection' clause that allows them to refuse to perform abortions. This has resulted in a shortage of doctors to carry out the procedures and the NHS has been forced to subcontract 40% of abortions to the private sector, representing a 100% increase in subcontracting since 1997. This is a highly worrying trend that may result in women facing longer waits and increased difficulty accessing abortion in the future¹³⁷.
207. The 1967 Abortion Act does not extend to Northern Ireland. Although there is a suggestion that the bulk of public opinion is against abortion in Northern Ireland, there is no hard evidence to support this as no properly conducted survey has been carried out. Further, a Judicial Review, heard in March 2002, concluded eighteen months later in November 2004 that the law on access to abortion was unclear. As a result, the Department of Health, Social Services and Public Safety were instructed to issue guidelines on practice and provision. However, these guidelines have since been rejected by the Northern Ireland Assembly. In 2006, 1,295 women travelled to England and Wales from Northern Ireland to pay for an abortion. Research carried out with Northern Irish women who have accessed an abortion in Great Britain shows that 95% would have preferred to have had their abortion in Northern Ireland. The cost of termination including travel, treatment and accommodation ranges between £600 and £1,700, depending on the stage of pregnancy and whether a woman travels alone or with a companion.

The WNC recommends:

¹³³ The Royal College of Paediatrics and Child Health, 2004

¹³⁴ House of Commons Hansard, 31st October 2006, Column 155

¹³⁵ bpas, Poll shows majority support for legal abortion, bpas, November 2006

¹³⁶ Department of Health, www.dh.gov.uk, 2006

¹³⁷The Independent, 'Abortion crisis as doctors refuse to perform surgery', 16/04/07

- *that sexual health and contraception services be better resourced to provide adequate provision for all*
- *that national guidelines are implemented to ensure that all victims of sexual assault are examined by a female forensic examiner, without exception*
- *that the Government ensure that all women in the UK have free, equal and safe access to abortion*

Female Genital Mutilation

208. Women who have undergone female genital mutilation (FGM) can rarely access adequate sexual healthcare, as few gynaecology specialists are trained in treating conditions caused or exacerbated by FGM such as heavy or obstructed periods, incontinence, fistula, difficulty during childbirth, and increased infant mortality. Comprehensive training and guidance is needed if this practice is to be abandoned by the communities that still practice it and clinicians, nurses, teachers and social workers should all be trained to recognise when a girl might be at risk. There is a serious lack of information on the prevalence of FGM and this can only be gauged by the way the limited clinical services available are seriously oversubscribed. Government has yet to fund any comprehensive prevalence study, without which a robust argument for funding cannot be made.

- *See Article 5: Female Genital Mutilation, for recommendations*

Maternity services

209. Although the 6th Report (paragraph 460) notes that the UK rates are amongst the lowest in the world, rates of infant mortality, perinatal mortality and maternal deaths remain among the highest in the EU, which is a more apt comparator. There are significant inequalities in maternal and child health outcomes. Black African women have maternal mortality rates seven times higher than White women. Women living in families which have many features of social exclusion are up to twenty times more likely to die in childbirth than women from more advantaged groups. In 20% of maternal deaths, women book late (after 22 weeks' gestation) or have missed four or more routine antenatal appointments. There is a widening gap between the infant mortality rates for the Routine and Manual Group and the population as a whole.¹³⁸ Rates of caesarean births are increasing; we believe this is for clinical convenience rather than clinical need. The quality of maternity services varies, particularly due to a severe shortage of midwives. For women in prison, there is a serious shortage of mother and baby units, which can lead to babies being separated from their mothers.

210. In April 2007, the Department of Health published *Maternity Matters*¹³⁹ a report which laid out what all women could expect from NHS maternity services and promised that by 2009, women in England will have more choice about how they access services: through a GP or through a midwife; what kind of antenatal care they have; where they have the baby; and where they get postnatal care. However these promises have been called into question as they are not accompanied by any targets to address the shortage of midwives. The Royal College of Midwives calculated that England would need the equivalent of 22,000 full-time NHS midwives to implement the plan, against 19,000 today¹⁴⁰. A recent study by the Healthcare Commission¹⁴¹ found that a fifth of women did not have a midwife or doctor by their side

¹³⁸ Confidential Enquiry into Maternal and Child Health report, Why mothers die 2000-2002, RCOG 2004, Department of Health Review of health inequalities infant mortality PSA target, 2007

¹³⁹ Department of Health, *Maternity Matters: Choice, access and continuity of care in a safe service*, Department of Health, 2007

¹⁴⁰ www.rcm.org.uk/info/docs/Midwifery_Services.pdf

¹⁴¹ Health Care Commission

www.healthcarecommission.org.uk/serviceproviderinformation/reviewsandinspections/acutehospitalportfolio/maternityservicesreview.cfm

throughout delivery and that others felt that they were left too much in the care of maternity support workers.

211. Sexual violence training is not mandatory and nurses and midwives are not required to ask about or give advice on violence against women issues, barring domestic violence.

The WNC recommends:

- ***that the Government commits to focused action to “level up” on inequalities as they relate to maternal mortality rates***
- ***that the Government resources the comprehensive provision of Mother & Baby Units for women in prison***
- ***that the Government commits to up-skilling midwives as part of general strategy/commitment to improve recruitment and retention of midwives in the NHS across the UK***

Lesbian, Bisexual, and Transgender women

212. There is a lack of specific information on lesbian and bisexual women’s health needs, and many believe that they are a sexually healthy group of the adult population, leading experts to believe that they are not at risk of problems like cervical cancer and HIV. Lesbian patients have reported hostility, judgement and poor treatment when they disclose their sexual orientation to their doctor.¹⁴²

213. A study in 2003 of the mental health of lesbian, gay and bisexual people showed that lesbians reported more psychological distress than heterosexuals. Violence and bullying were more commonly reported by lesbians than heterosexual women, and 42 % of lesbians and 61 % bisexual women recounted negative or mixed reactions from mental health professionals when being open about their sexuality.¹⁴³

214. The majority of transgender people identify as women, but many find it hard to access appropriate, sympathetic and expert health care. Better resources, better training for service providers, and better publicity are required to meet the needs of these women. There are only a handful of specialist psychiatrists available to manage gender reassignment, and this shortage exacerbates the problem. Gender reassignment is determined and managed by reference to sometimes old fashioned concepts of women’s role and identity, but those seeking reassignment are unable to express uncertainty regarding their treatment if they wish to access the services they need.

The WNC recommends:

- ***that the Government commits to commissioning research to establish the specific health needs of Lesbian, Bisexual and Transgender Women***
- ***that the Government ensures that Health Care Professionals receive comprehensive and appropriate training on the specific needs of Lesbian, Bisexual and Transgender women***

Smokers

215. Over the past 30 years there has been a substantial decline in the proportion of adults who smoke cigarettes. However, in recent years girls have been more likely to smoke than boys and whilst the figures for regular smoking are very similar for boys and girls at age 11-12, by the time they are 13 or 14, girls are twice as likely to be smokers (16% compared with 8%). This

¹⁴² Department of Health, National Sexual Health Strategy. Department of Health: London, 2001

¹⁴³ Mind, Report: Mental health and social wellbeing of gay men, lesbians and bisexuals in England and Wales, 2003

pattern continues among the 15-16 age group with 31% of girls and 16% of boys at that age regularly indulging.¹⁴⁴

The WNC recommends:

- ***research is needed to understand the different attitudes to the take-up and cessation of smoking between boys and girls.***

Disabled and learning disabled women

216. There is a problem of healthcare accessibility for women with disabilities and learning difficulties; often little attempt is made to ensure that verbal or written information given to them is clearly understood. The Disability Discrimination Act (1995) does not cover situations which deny treatments (such as transplants, or smear tests) to women with disabilities, learning difficulties or high support needs, their health needs are not taken seriously and their sexual and reproductive health and rights are often regarded as unimportant issues. They are frequently excluded from decision-making regarding their sexual and reproductive health and are vulnerable to being coerced into decisions made by carers or health professionals.

217. The policy of closing long-stay institutions for people with learning disabilities and providing for care in the community is also welcome but alternative provision is variable and often of low quality, as is the whole process of transition. In particular, the mental health needs of those with learning disabilities are known to be greater than of those without such disabilities. ‘Challenging behaviour’ is much more commonly a diagnosis applied to boys and men with learning disabilities but girls and women have other needs that require recognition and treatment, especially in order to live successfully outside long-stay institutions. Meanwhile their experience in long stay institutions has often disabled them from successful adaptation outside.

218. The 2007 Disability Equality Commission report *Equal Treatment: Closing the Gap*¹⁴⁵, investigated the physical health inequalities experienced by people with learning disabilities and/or mental health problems. Although this report was useful in identifying clear gaps, there was a failure to address the specific gender needs of these groups. The Government needs to focus services on these groups and offer incentives to general practitioners to work in this area.

The WNC recommends:

- ***that the Government ensures that gender is mainstreamed across its work on disability in general and specifically on steps to attend to the mental and physical health needs of those with learning disabilities***
- ***that the government expands its stakeholder group - Equality 2025 - to include organisations working with and for disabled people and to ensure women are represented in these groups who can speak to gender needs***

Black and minority ethnic women

219. One in five mental health in-patients comes from a black and minority ethnic (BME) background, compared to about one in ten of the population as a whole¹⁴⁶. In January 2005, the Department of Health published a five-year action plan, Delivering Race Equality (DRE) in Mental Health Care¹⁴⁷ which aims to help mental health services provide care that fully meets

¹⁴⁴ Economic and Social Research Council (September 2004) Understanding adolescent smoking initiation: A four-year longitudinal study, Economic and Social Research Council: Swindon.

¹⁴⁵ *Equal Treatment: Closing the Gap*, The Disability Equality Commission, 2007

¹⁴⁶ Department of Health, 2008

¹⁴⁷ Delivering race equality in mental health care: an action plan for reform inside and outside services, Department of Health, 2005

the needs of BME patients and builds stronger links with diverse communities. However, this plan is notably lacking in a gendered perspective.

220. Despite London becoming more diverse, with several boroughs having populations of up to 70% BME residents¹⁴⁸, many women who have experienced violence, find gaining access to culturally appropriate health and social care services problematic.
221. Some minority ethnic women (for example, South Asian women) have concerns that GPs from within the community cannot be trusted to maintain patient confidentiality on issues such as domestic violence and sexuality, and fear GPs may pass on information to patients' families.¹⁴⁹

The WNC recommends:

- ***that comprehensive research is conducted in order to establish the primary and specific health needs and solutions for BME women***

Refugee and Asylum Seeking Women

222. Free access to non-urgent secondary NHS care by overseas visitors has been restricted since 2004. The term 'overseas visitor' includes a woman who may be residing in the UK but is not deemed lawfully present by the UK Government e.g. failed asylum applicant (except where the applicant has not been ordered to leave the country for instance because there is no safe route home), overstayer, or trafficked person. While the UK Government has given assurances that no person will ever be denied immediately necessary treatment, the rules around access to maternity care such as antenatal and midwifery services are so complex that some staff wrongly deny women care while other women are deterred from using the services by a hospital's demand that they guarantee to pay fees of several thousands of pounds, or sometimes by the threat of deportation. Leading refugee and health charities have documented cases of women refused antenatal care and forced to give birth without medical attention. There are NGO concerns about moves to similarly restrict such women's access to free primary care as part of the UK Government's stated aim to encourage undocumented people to leave the UK via a regime of enforced destitution. This may deny such women access to general practitioners which may effectively deter such women from seeking medical evidence to document violence against them.

The WNC recommends:

- ***that, at a minimum, the Government ensures that all maternal health services are classified as treatment which is immediately necessary and should not be subject to advance charging***
- ***that the Government ensures that all primary care remains free at the point of access given the importance of preventative treatment***

Travelling women

223. Health problems amongst the Travelling community are between two and five times more common than in the settled community and such communities find it difficult to access services; without a fixed address, it is hard to find services and to undertake a continuing course of treatment. Better outreach services are needed. In particular, in Northern Ireland there is an issue relating to the accessibility of healthcare for Nomadic travellers moving from the Republic of Ireland to Northern Ireland. Although men and women Travellers experience few differences in their overall health status, there is the important exception of mental health

¹⁴⁸ Newham, 2005

¹⁴⁹ Muslim Women's Network/Women's National Commission, She Who Disputes, 2006

where Traveller women are twice-as-likely to experience anxiety and depression than Traveller men.¹⁵⁰ Additionally, young women from Traveller communities face appalling discrimination fuelled by negative stereotyping and a lack of understanding of their culture and traditions. They suffer a disproportionately high number of miscarriages, stillbirths, neo-natal and perinatal deaths and have the highest maternal death rate among all ethnic groups.¹⁵¹ It is estimated that, on average, Travelling women live 12 years less than women in the general population.¹⁵²

The WNC recommends:

- ***that the Government considers the adoption of an EU Medical Card which will facilitate Travellers, especially those with chronic conditions, receiving uninterrupted treatment***
- ***that the Government commits to the provision of Travellers health workers in an effort to reduce unacceptable levels of health inequalities between the Travelling Community and the general population***

Mental health

224. Twice as many women than men suffer from depressive illness. Black and minority ethnic women suffer higher rates again. Institutional racism and a lack of culturally-appropriate services may be some of the causes. Young South Asian women are over-represented amongst suicides. Mental Health research evidence shows that they are three times more likely to kill themselves than women in the general population.¹⁵³ Suicide and self-harm amongst South Asian women is different to that of others as they are more likely to be caused by abusive and oppressive practices in the family such as domestic violence and forced marriage and less likely to have a previous diagnosis of mental health problems.¹⁵⁴
225. The problems that asylum seeking and refugee women face are complex and compounded by the difficulties they face in the asylum system. Duties under the Mental Health Act 2005 are not being fulfilled for asylum seeking women in detention. The uncertainty and anxiety caused by insecure status and their past experiences in their home country impacts negatively on their well-being and mental health as well as feelings of isolation, grief and bereavement.
226. The Government's strategy, *Women's Mental Health: into the Mainstream* is a welcome step forward and represents one of the few examples of the gender mainstreaming of public policy. However, it has not been implemented, and ignores the needs of key groups of women: lesbians, disabled women, transgender, and ethnic minority women. Women whose multiple identities bring multiple discrimination, such as lesbians within the Muslim community, find it especially difficult to access appropriate services that are sensitive to their needs, even though their situation can generate high levels of mental stress and breakdown. Health services for women in prison are wholly inadequate, given that around 70% have mental health problems¹⁵⁵ (see paragraph 24). Most women in secure hospitals have a history of being abused physically and sexually, and stand no chance of recovery while security of detention is prioritised over effective treatment.

¹⁵⁰ University of Sheffield (2004) *The Health Status of Gypsy Travellers in England: A report to the Department of Health.* The University of Sheffield: Sheffield.

¹⁵¹ YWCA England and Wales, *A long way to go: Young Gypsy and Traveller Women*, 2007

¹⁵² Crawley, H. *Moving Forward: The provision of accommodation for travellers and gypsies*, Institute of Public Policy Research, London, 2003

¹⁵³ Fpa *Raleigh Suicide Patterns and Trends in People of Indian Sub-continent and Caribbean Origin in England and Wales* Ethnicity and Health Vol I, No.1 1996

¹⁵⁴ Siddiqui and Patel *Sad, mad or angry? Mental illness and domestic violence in From Homebreakers to Jailbreakers* Southall Black Sisters, Zed Press, London, 2003.

¹⁵⁵ Fawcett Society www.fawcettsociety.org.uk (2007)

227. Research conducted by Derry Well Woman in 2003 on determinants of Mental Health in women indicates that dedication to increased childcare provision, family friendly working hours and the increased involvement of women in planning and decision making in social issues is vital for addressing issues of women's mental health.

The WNC recommends:

- ***that the Government commissions research on the high level of mental health issues and suicide affecting Black, Minority, Ethnic and Refugee Women***
- ***that mental health services promote an inclusive multicultural strategy addressing the distinctive gender, linguistic and cultural needs of refugees and asylum seekers***
- ***that the Government ensures that a multi-sectoral approach be taken to the issue of Mental Health, focussing on action on factors which determine Mental Health status***
- ***that the Government ensures that the Mental Health Act 2005 is fully implemented, with regards to asylums seekers in detention***

Older women's health

228. Twelve million women in the UK are aged 45 and over. Many of these women will spend longer in paid employment, as they are likely to live longer than ever before, and will make a significant contribution to the economy and public services. Today, 69% of women aged 50-59, and 12% of women aged 60 and over, are in paid work¹⁵⁶. However, little is known about the implications of these trends for the health of older women¹⁵⁷. The limited research that has been done shows that older women work longer hours than younger women, have lower status jobs and have a higher chance of developing bad backs and broken bones¹⁵⁸. Greater commitment to age and gender equality is needed in occupational health research, the organisation of work, workplace health interventions and in the framing of wider social policy if the needs of older working women are to be met.

Cancer screening

229. The UK has one of the highest mortality rates in Europe for breast cancer. As women over 70 have the highest rates of breast cancer, we believe that screening should include this group automatically and that services should be better publicised to improve take up rates, including among disabled women, women whose first language is not English, and women from Travelling communities. In particular, BME women have much lower levels of knowledge about breast cancer, symptoms and risk factors compared with the general population. A study showed that 32% of BME women said they did not know much about breast cancer and 45 % of BME women of screening age (50 to 70 years) had never attended the NHS breast cancer screening programme.¹⁵⁹

The WNC recommends:

- ***that more work be done in BME communities to inform women of the risk factors and symptoms associated with breast cancer and to ensure breast cancer screening attendance***

¹⁵⁶ Trade Union Congress, www.tuc.org.uk/h_and_s/tuc-12623-f0.cfm

¹⁵⁷ Help the Aged/ The Age and Employment Network (2006) Older Women, Work and Health: Reviewing the Evidence. University of Bristol: Bristol.

¹⁵⁸ Trade Union Congress and Pennell Initiative for Women's Health (2002) The Health and Work of Older Women: a neglected issue. University of Bristol: Bristol.

¹⁵⁹ Breast Cancer Care, Same Difference Briefing, 2005

Coronary heart disease

230. There is substantial evidence of sex inequality for Coronary Heart Disease, which is the commonest cause of death in the UK. Women with angina are less likely to be referred to a specialist or to undergo a revascularisation, a process that prolongs life. Women are less likely to have cardiovascular risk factors and serum cholesterol concentration recorded; and despite women having higher cholesterol concentrations, more men are treated with cholesterol lowering drugs. Men are more likely to have their height, weight and body mass recorded, despite women being more likely to be obese. Men are more likely to be prescribed aspirin as a preventive measure. Sex inequalities are created by a lack of recognition of sex differences in medical research and clinical trials.

The WNC recommends:

- *that the Department of Health conducts routine gender specific monitoring of patient profiles and treatment programmes*
- *that the Department of Health develops a plan of action against inequality with reference to the provision of Coronary Heart Disease treatment*

Homeless women

231. The situations and experience of homelessness can have severe consequences for women's physical and mental health and well-being. Physical health problems, the onset of mental ill health, suicide attempts, drug and alcohol abuse, and 'coping crises' are all commonly reported by homeless women. Physical health problems, sometimes resulting in hospitalisation, include septicaemia, cysts and blood infections, malnourishment, exhaustion, anaemia, swollen and blistered feet amongst many others. Often without enough money for food, living in stressful conditions, spending much of their time in the cold and with disrupted sleep patterns, poor health is almost an inevitable consequence. Research by Crisis on homeless women reveals that it is the impact of homelessness on *mental* health and well-being that appears to concern women the most, with suicide attempts and suicidal thoughts relatively common¹⁶⁰.

The WNC recommends:

- *that the Government increase the provision of counselling for homeless people and develop 'informal emotional support' services that operate in ways that are sensitive to the needs of women*

Single Sex Wards

232. In 1997, 2001 and again in 2005, the Government made a clear public commitment to eliminating mixed-sex accommodation for hospital inpatients. Three objectives were set for the NHS, designed to deliver single-sex accommodation: 1) to ensure that appropriate organisational arrangements are in place to secure good standards of privacy and dignity for hospital patients; 2) to achieve the Patient's Charter standard for segregated washing and toilet facilities across the NHS; and 3) to provide safe facilities for patients in hospitals who are mentally ill which safeguard their privacy and dignity. These objectives apply to all NHS trusts providing inpatient accommodation. In the Annex of the 6th Report, it states that the Government set a target to eliminate mixed-sex accommodation in 95% of NHS Trusts by the end of 2002. It also states that this target had been exceeded in 99% of NHS trusts. However, a report published in 2007 by the chief nursing officer Professor Christine Beasley, found that

¹⁶⁰ Reeve, K, Casey, R & Goudie, R. *Homeless women: still being failed but striving to survive*, Crisis, 2006.

one in five hospital trusts has failed to eliminate mixed-sex wards. This undermines the dignity, safety and comfort of thousands of patients, particularly elderly women.

The WNC recommends:

- ***that the Government support strategic health authorities in reaching their target of significantly decreasing the amount of mixed-sex accommodation***

Devolution

233. The health of women in Scotland is very poor compared with the rest of the UK and Europe. Scotland tops the international league tables for heart disease, cancer and strokes. Premature deaths from heart disease are 70% higher for women in Scotland than in, for example, East Anglia in England. Women in Scotland are less likely than men to endanger their health by smoking, drinking and dietary habits, but also take less exercise, which is detrimental to health¹⁶¹. In 2007 violence against women has been declared a priority health issue for NHS Scotland. Measures to support this have yet to be announced.

234. In Wales, positive cross-cutting policies are aimed at preventing heart disease, obesity, diabetes and osteoporosis by promoting well-being through exercise and sensible nutrition. Women are more likely to die from a stroke or pneumonia than men. Breast Test Wales has facilitated early intervention in breast care, reducing mortality. The shortage of radiologists impedes progress, especially in remote areas. Teenage pregnancy has dropped to 9.5 % of all live births in 2005 as being born to mothers aged under 20 years of age.

235. In Wales, of the 22 Local Health Boards, six have women Chairs and ten women Chief Executives. 33% of medical staff in hospitals are women. Overall more women work in public health, (an overall ratio of 0.6 men to every woman.), but twice as many men work as hospital doctors or dentists.

236. Northern Ireland is emerging from 30 years of conflict. Women and Women's groups have, particularly in working class communities, carried the burden of maintaining family and community well-being.

The WNC recommends:

- ***that the Northern Ireland Assembly takes action to prevent a diminution of women's groups activities as Northern Ireland moves from conflict to peace***

ARTICLE 13 — SOCIAL AND ECONOMIC BENEFITS

237. It is difficult to assess the extent of women's social exclusion, poverty and access to resources, without systematic gender-impact assessments, particularly of the UK Budget. Government statistics should be routinely gender-disaggregated. The Government's economic indicators should include, for example, the value of unpaid work. It is estimated to add a value of between 44% and 104% of GDP¹⁶², and is largely undertaken by women, but is excluded from Government calculations. The Government must routinely produce a gender impact assessment of its budget and its economic and social policies. The 6th report admits this is not done (paragraph 241).

¹⁶¹ A Gender Audit of Statistics: Comparing the position of men and women in Scotland, Government Social Research – Research Findings No 31/2007

¹⁶² Short, S., Time Use data in the Household Satellite Account – October 2000. Office of National Statistics, 2000

238. Gender-budgeting is a tool that can be used to assess Government expenditures and ascertain whether public expenditures are having a disparate impact on women and men. Gender-budgeting seeks to expose the myth of gender-neutrality in economic policy and raise awareness and understanding of how Government budgets impact upon women and men in different and sometimes detrimental ways. The process of gender-budgeting involves an analysis of a public expenditure from a gendered perspective, and then identifying the different implications that this expenditure will have on women and men. Gender-budgeting is a relatively new concept, and its methodologies are still emerging; its processes can therefore be adapted to a specific national or local context. Although gender-budgeting can be highly effective at improving Government efficiency, accountability and transparency, it has yet to be fully adopted as an equality-enhancing technique by the UK Government.

The WNC recommends:

- ***that the Government adopt gender-budgeting as a gender-mainstreaming approach to economic policies to ensure that Government expenditure promotes gender equality***

Environment

239. Compelling evidence exists that Britain has one of the worst records in the world for recycling its rubbish. It needs to quadruple its current rate to reach the EU stipulated 50% by 2015. Landfill sites receive 90% of our waste. They produce health hazards to which women are particularly vulnerable. A British Medical Association study has identified increased incidence of birth defects for those living near landfill sites. Chemical pollution has a strongly suspected link with the increasing numbers of women suffering from breast cancer. The lack of women in environmental decision-making means that they are not sufficiently included in decisions on local food production, sources of renewable energy, community regeneration and sustainable economic development or the built environment.¹⁶³

The WNC recommends:

- ***that the Government support and reinforce the importance of women's role in decision-making on environmental issues***

Lone parents

240. 1.9 million lone parents with dependent children live in the UK (Spring 2005); 3.1 million children live in lone parent families (2004 data). 91% are headed by women. 11% live on gross weekly incomes of £100 a week or less compared with just 4% of married couples and 5% of cohabiting couples with children; 41% lived on gross incomes of £200 a week or less, compared with 8% of married couples and 11% of cohabiting couples with children.¹⁶⁴

Housing

241. Due to their lower economic status, women experience a disadvantage when accessing housing on the open market; women who are on a low income face further burdens when faced with high rents, deposits and rent guarantees. In most cases, private landlords are unwilling to accept tenants who are on Housing Benefits (HB), due to delays and administrative problems with the current system, thus limiting women who are dependent on HB access to the private rented sector. One of the major causes of women's homelessness is domestic violence and while the policy of most housing departments in London is to make one reasonable offer of permanent accommodation to homeless households, this option is often not the best one for women who are coming out of a domestic violence situation. Women survivors of domestic

¹⁶³ Women's Environmental Network, www.wen.org.uk, 2007

¹⁶⁴ One Parent Families, 2007

and sexual violence have special needs that have to be addressed, amongst them the possibility of vacating the area, a higher need of security, appropriate and safe space where they will not suffer further harassment from other residents, and provisions for children.. Housing is still hard to get even if you are prioritised due to domestic violence; waiting lists are often very long, putting increased pressure on refuges. This is especially problematic for women whose children are in care – they can't get their children back until they have a house, yet it is difficult for them to get a house without children in their care. Additionally, housing needs are a particularly big issue for domestic violence survivors who are substance misusers, as very few refuges will accept them. This also affects prostitute women

242. Homeless women are particularly isolated and cut off from services and assistance. Research shows that whilst 60% of homeless women have slept rough, only 12% had engaged with street outreach teams. 40% of homeless women reported having been excluded from a service and 10% were not using any service. 20% had become homeless to escape violence from someone they knew; less than a third of women were accepted for housing by local authorities.¹⁶⁵ Homelessness has become a key concern among young women in the UK, with 1 in 10 of the UK's 16-24 year olds fearing being made homeless.¹⁶⁶
243. Racial harassment has a major impact on the quality of life of BME women yet it is infrequently dealt with within housing policy. Racial harassment can restrict housing choices, as statistics show that four in ten Asian (Indian, Pakistani or Bangladeshi) women and one third of black women nationally are "very worried" about racist attacks.¹⁶⁷
244. Over 20% of people aged over 75 live in poor housing conditions. Lone older people are more likely to live in poor housing conditions (23%) than are older couples (15%), which is particularly relevant for women as, for example, women make up 78% of lone person households over 60 years in London.
245. Disabled women face even further discrimination, as they are not prioritised in housing. When disabled women are being allocated housing, their needs, and the suitability of the housing (location, wider community, and proximity to amenities and transport) can be overlooked. Women with physical or sensory impairments need appropriate homes. There is an unmet demand for services for disabled women and women with learning difficulties who are or who have experienced domestic and sexual violence. There is only one shelter in London for women with learning difficulties who have been abused; it is over subscribed and expensive and some social service departments are unwilling to refer. Refuge accommodation in London does not meet the recommended provision of one family space per 10,000 of the population. There is also a need for second stage housing for women experiencing domestic violence (low support environment before making the transition to permanent accommodation). Women with mental health problems find it more difficult to access housing support services as accommodation is not available to meet their needs and women may be housed in refuges which are unable to provide mental health support.

The WNC recommends:

- ***that the Government ensures that all women exiting a domestic violence situation have access to safe and appropriate housing***
- ***that the Government increase the provision of women-only accommodation and daytime services for homeless women, and of women-only areas or sessions within mixed services***

¹⁶⁵ Crisis, www.crisis.org.uk/page.builder/how-homeless-women.html, 2007

¹⁶⁶ Eaves, www.eaves4women.org.uk, 2007

¹⁶⁷ Home Office, British Crime Survey. Home Office: London, 2000

- *that the Government ensures that gender training for management and frontline staff in homelessness agencies should be standard practice to ensure that services do not indirectly discriminate against women by operating in ways which are insensitive to their needs and preferences*
- *that the Government recognise the existing barriers to homeless women's engagement in education and employment, and develop appropriate, gender-sensitive approaches to increase their access to learning and skills*
- *that the Government ensures that a more integrated approach to meeting homeless women's needs is developed, where services are more joined-up, involving a range of services including sexual and domestic violence, substance misuse and mental health services, which can be navigated by homeless women with greater ease.*
- *that the Government ensures that all data collected on homelessness is disaggregated by gender*
- *that the Government reviews its housing policy to ensure that racial harassment is adequately addressed*
- *that the Government ensures that all older people and in particular older lone women are housed in good quality, safe housing*
- *that the Government supports and promotes the use of disability housing registers by both social and private landlords. These registers should record details of both accessible housing and disabled people in need of accessible housing.*

Arts, sport and leisure

246. Sports participation rates among women are at shockingly low levels. 55% of women do no sport or active recreation compared to 46% of men. Girls as young as seven show negative attitudes towards sport. By the age of 18, 40% of young women have dropped out of physical activity altogether.¹⁶⁸ Men's lack of equal involvement in caring and domestic responsibility, and the long working hour's culture, hinders women's participation in sport, the arts and leisure activities. Men are more likely to take exercise than women (36% of men compared to 23% of women).
247. There is scarce media coverage dedicated to women and girls' sports. In 2006, only 4.8% of space in the daily sports pages was dedicated to women and girls in sport¹⁶⁹. Poor media coverage also results in poorer levels of sponsorship and a dearth of visible role models for young sportswomen of the future.
248. Only a quarter of representatives on sports boards and committees (of governing bodies and sports councils) are women. In 2006, full-time male employees earned 18% more than women working in recreation, culture and sporting industries. Women still lag far behind men in terms of elite coaching. At the 2006 Commonwealth games in Melbourne, only 20% of the Home Countries' coaches were women.
249. As of November 2006, just 295 female athletes compared with 413 male athletes received sports councils' funding. As a proportion of all athletes funded through the various programmes, women make up only 41% of all those being funded. Women received 87 % the amount that men did - men get £10,729 compared with £9,294 for women.¹⁷⁰

¹⁶⁸ Women's Sports Foundation, WSF Fact sheet: Levels of participation, March 2007

¹⁶⁹ *Women in Sport: the state of play 2006*, UK Sport, 2006

¹⁷⁰ Women's Sports Foundation, www.wsf.org.uk, 2007

250. The establishment of leisure centres with strong community links and disabled access can be of great value to the wellbeing of women, many of whom prefer informal sport to competitive team games. Centres that include childcare facilities, with reasonable pricing and which do not exclude those in the greatest need, are providing an essential service. Further, the option of women only facilities make sport and leisure activities accessible to a wider range of women including many from Minority Ethnic and Faith groups who feel unable to participate in mixed provision.
251. There is still a lack of women's art works displayed in galleries and museums; pictures or sculptures by women are few in number in our national collections, and it is still the exception rather than the rule that women's work is promoted. Major music festivals, such as the BBC Proms, programme few works by women. For example, the 2006 Proms season was famously without any women composers or conductors at all. 2007 fared little better with women constituting just 4.2% of composers and 2.9% of conductors¹⁷¹. Consistent progress needs sustained support, not the hand-to-mouth modest funding of the current system. The Arts Council needs to conduct a wide ranging gender audit in order to produce disaggregated statistics demonstrating reliable evidence about the discrimination suffered by women in the Arts.

The WNC recommends:

- ***that the Government set targets on equitable sports expenditure, delivery and participation***
- ***that the Government require sports organisations funded by public money to achieve equality on women's participation as athletes, coaches and officials***
- ***that the Government should support local authorities to make provision for women friendly leisure centres that include childcare facilities***
- ***that the Government use the upcoming Olympics as a tool to promote sports for women***
- ***that the Government conduct a gender audit of the Arts to produce disaggregated statistics to identify the extent of the discrimination suffered by women in the Arts***

Wales

252. The Welsh language is of unique value and cultural importance to many Welsh people. The teaching of the language is largely undertaken by women: last year's entry for Welsh at A Level was 80.6% female, 19.4% male, and as a foreign language 77.8% female, 22.2% male.

ARTICLE 14 — RURAL WOMEN

253. Research on women in rural areas has identified a range of problems. Social exclusion is a significant barrier to women in rural areas and is often unaddressed. Social exclusion is increased by poor provision of education, transport, health and childcare services as well access to employment and training. A report by the Rural Community Network Northern Ireland highlighted inequalities that women face in provision of these services when they are based in rural areas.¹⁷² The Commission for Rural Communities 2006 report, *Rural Disadvantage: reviewing the evidence*, expresses concern about women in rural communities¹⁷³ and examines the evidence that shows women tend to be disadvantaged in terms of employment, education, isolation and struggle with persistent stereotypes as a 'wife' or 'mother'.

¹⁷¹ See: womeninmusic.org.uk

¹⁷² Women in Rural Areas in Northern Ireland, Rural Community Network.

¹⁷³ Rural Disadvantage: Reviewing the Evidence, Commission for Rural Communities, 2006

254. The Commission for Rural Communities 2006 report also highlights that BME women, women in the Travelling community, lesbians and transgender women and women migrant workers, asylum seekers and refugees in rural areas tend to face a double disadvantage due to a lack of suitable local services, outreach services provided by an independent sector; transport schemes to access services away from home such as solicitors, hospital and medical provision, and information about support services. The range of unaddressed problems can lead to poor motivation and a lack of confidence and self-esteem that often results in depression.
255. In 2003, the Department for Transport paper *Making the Connections: Final Report on Transport and Social Exclusion* outlined how public transport could be improved to reduce social exclusion especially for women and young people.¹⁷⁴ It recognised that women tend to be more reliant on public transport than men and therefore, where public transport links are poor, such as in some rural areas, women are more likely to be more greatly affected by social exclusion. However, this problem persists.
256. Women in rural areas face inequalities in accessing health services; this is especially important in gender-based services such as maternity services or domestic abuse support services. The British Medical Association 2005 report *Healthcare in a Rural Setting* highlighted the poor provision of services in rural areas.¹⁷⁵ The report also stated that women were more likely than men to report difficulties in accessing a GP and pharmacies as well as other vital services such as a main food shop and post office which was also caused by a greater reliance on public transport. The closure of many rural post offices is just an example of the barriers that rural residents face. Age Concern has not only campaigned on these issues but also produced a report on the effects of post-office closures on older people. The YWCA report *'Beyond the Bus Shelter'*¹⁷⁶ also suggests that a lack of anonymity in rural communities can lead to young women failing to seek help on personal issues such as sexual health and contraceptive needs, illicit drug use, alcohol abuse, self-harm and domestic violence. In this report, young women consistently acknowledged that they were deterred from seeking professional advice about these issues, for fear of their families and friends finding out.
257. Further problems face younger women in accessing further education and employment opportunities. The 2006 Commission for Rural Communities research found that young people in rural areas face significant barriers to accessing post-16 education. Young women were also found to be more greatly affected by the tendency for employees in rural areas to receive pay below the national average wage in their first job. Combined with poorer IT services, young women in rural areas face significant barriers to employment.
258. Rural women suffering domestic violence, rape, sexual assault and other forms of gender-based violence face particular problems due to isolation. In particular, the new policy of dispersing asylum-seeking women to rural areas prevents them from accessing appropriate and culturally sensitive services. A Home Office report on domestic violence suggests that women may find it harder to access services and increase feelings of isolation.¹⁷⁷
259. People in rural areas have limited access to a computer and often lack relevant skills. Many rural areas do not have proper broadband coverage or adequate mobile telephone cover.

The WNC recommends:

¹⁷⁴ Social Exclusion and Transport http://archive.cabinetoffice.gov.uk/seu/docs/mtc_transport_se2003.pdf

¹⁷⁵ Healthcare in a Rural Setting, British Medical Association Report, 2005

¹⁷⁶ 'Beyond the Bus Shelter - Young Women's Choices and Challenges in Rural Areas', YWCA, 2002

¹⁷⁷ Tackling Domestic Violence, effective interventions and approaches, The Home Office, 2005.

- *that the Government provide more outreach activities and mobile units, with incorporated childcare, in essential service provision including; healthcare, citizens advice, education, libraries, play buses, and mini-bus services, that also cater to the specific needs of minority groups*
- *that the Government establish mobile well-women clinics with women clinicians*
- *that the Government provide resources for more affordable, regular and extended bus services, including night services that are pushchair and wheelchair accessible*
- *that GP practices in rural areas are enhanced to provide a confidential advice service*
- *that the Government fund further and higher education colleges to offer free transport, extend childcare provision, and distance learning to help women in isolated rural communities, especially those with children, to escape poverty and social exclusion*
- *that the Government fund outreach programmes to support rural women experiencing gender-based violence*
- *that the Government ensure the mainstreaming of gender in rural regeneration strategies*
- *that local authorities provide adequate sites for travellers, designed with women's safety in mind*
- *that the Government work to provide greater accessibility of IT in rural areas*

ARTICLE 15 — EQUALITY BEFORE THE LAW AND CIVIL MATTERS

Access to justice

260. The Beijing Platform for Action, of which the UK Government is a signatory, calls on Governments to: "Strengthen existing or establish readily available and free or affordable...legal aid programs to assist disadvantaged women seeking redress for violation of their rights"¹⁷⁸. Public funding is a vital part of access to justice for women in the UK. We are therefore extremely concerned at the serious and worsening problems in publicly funded work in the UK. In 2000, the Legal Services Commission, which contracts lawyers in private practice to provide advice, help and representation to low-income clients, replaced the Legal Aid Board. This change has had a major impact, particularly on vulnerable women, and this is especially dangerous where women are experiencing domestic violence. We believe the current and worsening situation will lead to real threats to the safety of women and children who are unable to get access to legal help. Problems of access are especially acute for women from rural communities. Applications granted for legal aid in England and Wales dropped from 279,000 in 1998 to only 156,164 in 2005–6. Further, in spite of more protective legislation (Family Law Act 1996), there has been a decrease in the number of non-molestation orders granted to women suffering domestic violence, down to only 17,340 in 2005¹⁷⁹, compared with 32,781 in 1993. These deficiencies are exacerbated by the shortage of reliable advocacy. Citizens' Advice Bureaux do excellent work but need more resources to cope with increasing demand. The third Law Society Gazette Legal Aid Survey, undertaken in 2004, found that 75% of solicitors said they did not expect to be doing the same amounts of legal aid work in five years time. In particular, family law provision is in dire straits - of the 20% of respondents to the survey who had dropped an area of work, 19% had ceased doing family cases.¹⁸⁰

The WNC recommends:

- *that the Government, as a matter of urgency, address the worsening situation in regards to legal aid provision*

¹⁷⁸ Strategic Objective 1.2 para 232(n), the Beijing Declaration and Platform for Action, United Nations 1996

¹⁷⁹ Judicial Statistics Annual Report 2005, National Statistics

¹⁸⁰ The Legal Aid Practitioners Group

- *that the Government account for and address the drop in the number of non-molestation orders granted*
- *that the Government provide more resources to the Citizens Advice Bureaux to enable them to cope with the increasing demand for legal advice*

Women in the judiciary and criminal justice system

261. More women, and more black and ethnic minority women, are working in the court system: women account for more than 50% of probation officers, Crown Prosecution Service lawyers and Magistrates and Crown Court staff¹⁸¹. The initiatives taken by the Ministry of Justice to encourage more women to apply for judicial appointment are welcome; however this is the only Government department that has consistently refused to set targets on women in public appointments.
262. Meaningful access to, and administration of, justice is dependent on having a diverse and representative legal profession, at all levels. Women are under-represented in the legal profession as a whole, and particularly at the higher levels, including the judiciary. Women lawyers are also significantly under-represented at senior levels in general, particularly as Partners in law firms. Women from disadvantaged or socially excluded backgrounds are seriously under-represented within the profession, to the detriment of the justice system. A study showed that a glass ceiling operates for women across the system, and this is particularly so for BME women who face multiple discrimination.¹⁸²
263. Two thirds of Crown Prosecution Service staff are women; however they are clustered at the lower levels. Women represent 10% of High Court Judges, 11% of Circuit Judges, 14% of Recorders, one fifth of District Judges, and around half of Magistrates. There is only one woman judge out of 12 in the House of Lords, the highest court in the country, and there are no ethnic minority women judges in the House of Lords or Court of Appeal.¹⁸³ Although 35% of barristers and solicitors are women, they represent only 8% of Queen's Counsels (QCs). As not enough women are applying to become QCs (in 2003, 39 women applied against 355 men¹⁸⁴), this affects judicial appointments as the most senior judges are appointed from their ranks. A new appointments process for QCs has been introduced, and under this system, 15% of the first group of applicants were women, compared with 10% of female applicants in the last round of the previous system. However, an audit process of the new system of appointments should be put in place to ensure that progress is made.
264. We very much welcome the establishment of the Judicial Appointments Commission (JAC) in 2005. The JAC selects judicial office holders on the basis of merit, through fair and open competition and from the widest range of eligible candidates. The Government must ensure it is adequately funded in order to establish a new and credible system, and it must operate freely and independently from the Ministry of Justice.¹⁸⁵ There are also concerns that some working practices may discourage women from seeking judicial office, for example, the requirement for High Court Judges to travel the country on circuit.¹⁸⁶

The WNC recommends:

¹⁸¹ Fawcett Society, www.fawcett.society.org.uk, Facts and Figures on Women and the Criminal Justice System circa 2001

¹⁸² Fawcett, Commission on Women and the Criminal Justice System, 2005

¹⁸³ Fawcett Society, www.fawcettsociety.org.uk, 2007

¹⁸⁴ Department for Constitutional Affairs, www.dca.gov.uk/judicial/qc03/silk03fr.htm#part3,

¹⁸⁵ *Ibid* 2007

¹⁸⁶ Commission for Judicial Appointments, Annual Report 2002 para. 6.17

- *that the Government identify the reasons for the small proportion of women judges, and develop a strategy to redress the balance, and ensure that the Judicial Appointments Commission is adequately funded*
- *that the strategy on judicial appointments must make positive steps to encourage women, particularly BME women, to ascend to the higher levels of the profession. This would include allowing family-friendly working hours, part-time working, and ensuring that women do not suffer disadvantage in returning to the profession after time out to raise children or meet other care responsibilities*
- *that any future strategy on judicial appointments must be thoroughly equality-proofed*
- *that all current and new members of the judiciary should receive compulsory equalities training, including on all forms of gendered violence*

ARTICLE 16 — EQUALITY IN MARRIAGE AND FAMILY LAW

265. Many women in the UK live with their partner, without being married. The proportion of married households has dropped to just 45% according to the Census 2001. Whilst some women choose not to marry, others may wish to marry but their partners refuse to do so. Many women erroneously believe that if they cohabit for a certain length of time or have children with their partners they have similar rights to those who are married (the ‘common law marriage’ myth). In 2004, The Civil Partnership Act came into force, enabling same-sex couples to have their relationships legally recognised and entitling them to the same rights as married couples in areas like tax, social security, inheritance, employment benefits, child guardianship and child maintenance. Women who co-habit with men and women who are in lesbian relationships but do not enter into a civil partnership are not well protected. In particular, women with children who are not married can face real hardship on relationship breakdown.

Rape and sexual assault

266. Approximately 80,000 women suffer rape and attempted rape every year in the UK¹⁸⁷. In 2007, only 1 in 8 (12%) of reported rape cases reached trial and only 5.7% ended in conviction.¹⁸⁸ This is one of the lowest conviction rates for rape in Europe.¹⁸⁹
267. Half of women in England and Wales experience domestic violence, sexual assault or stalking.¹⁹⁰ With the exception of Sexual Assault Referral Centres, there has been little investment at national and local levels into rape and sexual assault services, especially those supporting adult survivors of child sexual abuse. In many areas a female forensic examiner cannot be guaranteed despite recommendations on this dating back to 1985.¹⁹¹
268. Research on the investigation and prosecution of sexual violence cases suggests that adversarial legal systems are especially poor at delivering justice to victims¹⁹². Victim-witnesses are still subjected to very aggressive and, at times, insulting cross-examination by defence lawyers, and attempts to limit sexual history evidence have proved ineffective¹⁹³. Poor evidence gathering by the police is also a contributing factor, and in media coverage of

¹⁸⁷ Walby & Allen, Domestic violence, Sexual Assault and Stalking: Findings from the British Crime Survey, 2004

¹⁸⁸ Making the Grade?, 2006, End Violence Against Women campaign and Women’s National Commission, 2006

¹⁸⁹ L Kelly and L Regan, Rape: Still a forgotten issue, 2003

¹⁹⁰ Walby & Allen, Domestic violence, Sexual Assault and Stalking: Findings from the British Crime Survey, 2004

¹⁹¹ Temkin, J., Rape and the Legal Process. Oxford University Press, 2003

¹⁹² Kelly, L. and Regan, L. (2001) *Rape: The Forgotten Issue? A European Attrition and Networking Study*, London: Child and Woman Abuse Studies Unit.

Kelly, L., Lovett, J. and Regan, L. (2005) *A Gap or a Chasm? Attrition in Reported Rape Cases*, Home Office Research Study 293, London: Home Office.

¹⁹³ REF to sexual history project Kelly et al 2005

rape cases, which emphasise the exceptionally rare cases where women make unfounded allegations rather than the exceptionally large number of defendants who walk free. This, in turn, influences public opinion, and hence the views of potential jurors, making them less likely to convict.

269. Funding for local rape crisis services are minimal and a number of support groups have closed since 2002, for example the London Rape Crisis Centre in 2003, Milton Keynes RASASC in 2004 and the Hounslow Women's Counselling Service in 2005. With the exception of Scotland, rape crisis centres are chronically under-funded; some groups operate on less than £5,000 per year and most areas of the country have no provision at all. Some groups can only provide a helpline one evening a week, while in some areas rape victims are facing waiting lists of many months. Without adequate and appropriate support for victims of sexual violence, there can be a significant long term impact on mental and physical health, self-esteem and self-confidence leading to increased demands on health and social care services, and to a reduction in the economic contribution of those affected. Since October 2004 the Home Office has funded the National Rape Crisis Network of England and Wales and supported some local groups through one year grants from the Home Office Victims fund. We deplore the loss of funding and call for no more closures.
270. Sexual Assault Referral Centres (SARCs) provide high quality forensic medical examination services and crisis counselling. They do not provide for long-term support. Not all SARCs are women-only services, and many new SARCs do not provide the services suggested in the Government minimum standards: courtroom support, helplines and pro-active follow-up.
271. There were 62,081 reported sexual offences in England and Wales in 2005/06.¹⁹⁴ Despite this high figure, there is no national sexual violence helpline. This is a much needed service. A pilot helpline for adults who experienced childhood abuse received over 600 calls per week, of which they are able to answer around 60.¹⁹⁵
272. The heavy focus of reducing repeat victimisation and reducing the attrition rates hides the bigger problem of the vast number, 85% of women and girls nationally, who do not report sexual violence. In part, this is due to a distrust of the police/courts/legal system. The key recommendation made in the Home Office Study *A gap or a chasm?*¹⁹⁶ to address the culture of scepticism which pervades the responses of police and prosecutors, has not been implemented.

The WNC recommends:

- ***that the Government implement a long term, integrated strategy on violence against women, that includes prevention work, with clear targets, funding, and evaluation***
- ***that the Government ensures that well-resourced national helpline(s) are available to all victims of gender-based violence***
- ***that the Government allocate adequate resources to core fund fully accessible rape crisis centres in every area, offering women the support and advice they need. Ring-fenced funding should be available, similar to that which has secured and extended provision in Scotland***

¹⁹⁴ Home Office, 2006

¹⁹⁵ Eaves Housing, www.eaves4women.co.uk, 2007

¹⁹⁶ *A gap or a chasm?* Attrition in reported rape cases, Home Office Study 293, February 2005.

- *that rape crisis centres and other specialist support services for victims of sexual assault should be given secure and adequate funds to allow them to offer a 24-hour service in all areas under Compact three yearly cycles*
- *that there should be access to Sexual Assault Referral Centre in every area*
- *that victims of sexual assault should be dealt with by a specialist trained police officer throughout their case*
- *that in cases of rape and serious sexual offences the Crown Prosecution Service should only instruct advocates who have undergone accredited training*
- *that all women reporting rape should have access to a female forensic examiner*
- *that the Government ensure the privacy rights of complainants in sexual assault cases are not violated through the use of sexual history and third party record disclosure*
- *that the Government put in place a coherent strategy to address attrition and low conviction rates for rape and domestic violence*
- *that countering domestic and sexual violence be mainstreamed across Government Policy (e.g. Drug & Alcohol Strategy, Teenage Pregnancy, Supporting People, LAAs, CDRPs etc).*
- *that the Government run a sustained public awareness campaign focusing on the dismantling stereotypes and educating the public about perpetrators and the meaning of consent*

Domestic violence

273. 1 in 4 women in England and Wales¹⁹⁷ and 1 in 5 women in Northern Ireland¹⁹⁸ have experienced domestic violence, a crime that has the highest rate of repeat victimisation of all violent crime¹⁹⁹. In 2006/07, domestic violence accounted for 16% of all reported and recorded violent crime²⁰⁰. It is estimated that between 50-60% of women mental health service-users have experienced domestic violence and up to 20% will be experiencing current abuse.²⁰¹
274. In 2006/07, 56% of women killed in England and Wales, were killed by their current or former partners or family members – an average of two women killed every week – and a further 12% were killed by a person known to them²⁰². Women are at greatest risk of homicide at the point of separation or after leaving a violent partner²⁰³. Five times this number of abused women take their own lives.²⁰⁴ Little attention is given to the high rates of suicide among women who have experienced abuse and as the law stands, it is enormously difficult to prosecute the abuser when their victim commits suicide. Refuge, the domestic violence charity has lobbied for a law that would introduce ‘liability for suicide’.
275. We welcome the introduction of Specialist Domestic Violence Courts (SDVCs) in the UK, of which the Home Office is currently rolling out provision of 98 courts. However, a number of barriers in UK law and service provision have limited the success of SDVCs and consequentially they have not delivered the results of such courts in the US. Monies from the Home Office for domestic violence services have been concentrated on SDVC Programme

¹⁹⁷ *ibid*

¹⁹⁸ Northern Ireland Office and Department of Health, Social Services and Public Safety, *Tackling Violence at Home. A Strategy for Addressing Domestic Violence and Abuse in Northern Ireland, 2005.*

¹⁹⁹ Walby & Allen (2004) *op. cit*

²⁰⁰ Home Office 2008 *Saving Lives Reducing Harm Protecting the Public An Action Plan for Tackling Violence 2008-2011* HM Government March

²⁰¹ ReSisters (2002) *Women speak out* (Leeds: ReSisters); Department of Health (2003) *Mainstreaming Gender and Women's Mental health: Implementation Guidance* (London: Department of Health),

²⁰² David Povey (Ed.), Kathryn Coleman, Peter Kaiza, Jacqueline Hoare and Krista Jansson *Homicides, Firearm Offences and Intimate Violence 2006/07 2nd edition* (Supplementary Volume 2 to Crime in England and Wales 2006/07) Home Office, January 2008

²⁰³ Lees S. 'Marital rape and marital murder', In: Hanmer J et al. *Home Truths about Domestic Violence: A Reader*, Routledge, 2000.

²⁰⁴ Women and Equality Unit, *Living Without Fear*, 1999

provision, including contributing to the funding of Independent Domestic Violence Advisors (IDVAs) and the setting up of Multi-Agency Risk Assessment Conference (MARAC) systems for high-risk cases. However very few survivors will see their case progress through the criminal justice route and only approximately 3.5% of reported domestic violence cases result in a conviction. It is important that perpetrators are held to account and their risk managed because a conviction does not necessarily result in increased protection for survivors and their children. Whilst we welcome a strong justice response, we are concerned that since most survivors do not report to justice agencies (the British Crime Survey indicates that in 2004, only 24% of women domestic violence survivors reported to criminal justice agencies²⁰⁵), there is a need for adequate support services. We are also concerned that there is no dedicated funding to roll-out more SDVC programmes and its associated components, means that many survivors will not get the opportunity to receive a stronger justice response and access to independent advocacy and support.

276. The Domestic Violence Rule enables women with an insecure immigration status who are spouses or long-term partners of a British national to apply for permanent residency if they can prove they have been subject to domestic violence. However, this legislation is limited in its effectiveness (Reference article 9: 110).
277. Cultural depictions of disabled women as unfit mothers equip violent partners with increased and often realistic threats of children being taken away from their mother should she separate. Recent research has shown that such threats deter women from reporting and/or leaving a violent partner due to fear of losing their children. All abused women in this research were threatened that their children would be taken away from them, and all bar one did lose her children after leaving the violent partner.²⁰⁶ Disabled women who have been victimised typically experience more prolonged and severe abuse, suggesting that they have less access to protection.²⁰⁷
278. The lack of a specific offence of domestic violence in UK law means cases are consistently hidden within a large number of crime categories, undermining the ability of the Criminal Justice System to track cases easily and consistently. We are therefore dependent on cases being ‘flagged’ appropriately by staff in the Police and Criminal Prosecution Service. This system is highly unreliable, although improvements in flagging cases across the criminal justice system have been made, in some local areas, since their adoption of the SDVC programme requirements. Creating a specific offence of domestic violence that recognises and criminalises coercive control, would also help overcome these barriers.

Northern Ireland

279. The clear majority of victims of domestic violence in Northern Ireland are women. During 2005-06, 1069 women and children sought sanctuary in Women’s Aid refuges. The Police Service of Northern Ireland (PSNI) attended a total of 23,059 domestic incidents during 2005-06, which means they responded to a domestic incident every 22 minutes of every day of the year. For comparison, there were more than three times as many domestic-related crimes as drug offences. The PSNI acknowledge that there is still a large amount of under-reporting of this type of crime.

Scotland

²⁰⁵ Walby and Allen, *Domestic Violence, Sexual Assault and Stalking: Findings from the British Crime Survey*, Home Office Research Study 276, 2004.

²⁰⁶ Magowan, P *Research into disabled women’s experiences of domestic violence, 2008*

²⁰⁷ Magowan, 2004; Nosek 1996; Sobsey and Doe 1991; Young et al 1997

280. Government focus on service provision (2000 to 2005) in Scotland has resulted in an over 30% increase in refuge spaces, funding for a national rape crisis helpline, a minimum standard set for level of support for work with children living with domestic abuse, and the opening of two additional rape crisis centres. However, action on enforcement, prosecution and sanctioning of abusive men has proved less focused, and the result is no national data available about re-offending of domestic abuse perpetrators and a conviction rate for rape of less than 5%. Women with ‘no recourse to public funds’ face the same stark choice as in the rest of the UK of enduring the violence or facing destitution.
281. The Scottish Government and the National Group to Address Violence Against Women have initiated a national effort to broaden the focus of national and local work from domestic abuse to all the forms of men’s violence against women. However, the implications of this move for infrastructure and the resources needed to move quickly to address gaps in services and enforcement have not been well identified.

Wales

282. We welcome the Welsh Assembly’s All Wales Strategy on domestic abuse. Welsh Women’s Aid estimates that 25% of domestic abuse attacks occur while the woman is pregnant. We welcome the introduction of a comprehensive set of guidelines on domestic violence, drawn up with the help of Welsh Women’s Aid, for use in the NHS in Wales, especially in accident and emergency departments.

The WNC recommends:

- *that the Government implement a long term, integrated strategy on violence against women, including prevention work, with clear targets, funding, and evaluation*
- *that the Government provides secure, ring-fenced funding to ensure the sustained roll-out of SDVC Programme requirements in every area*
- *that the government remove the NRPF rule in order that the Domestic Violence Rule can be used to full effect by women subject to immigration control*
- *that the Government strongly considers implementing recommendations in the Beijing Platform for Action, and EU policy, in creating a specific offence of domestic violence in UK law*

Resources for support and outreach

283. The Supporting People Programme is a Government funding framework for housing-related support services that helps vulnerable people. Although the refuge sector, which provides temporary accommodation and support for women and children fleeing domestic abuse, was initially incorporated into the programme, the ring-fence has since been removed and there is currently no requirement for local authorities to use this money for domestic violence services. It is not possible to estimate exactly how many services no longer have contracts but smaller specialist services for women from black and other minority communities are already experiencing cuts and closures²⁰⁸.
284. The move to commissioning services is also problematic. It is vital that domestic violence is treated as a specialist area of support because evidence shows that survivors of domestic violence have a variety of short and long-term support needs, which can only be properly met by a range of specialist services delivered by independent service providers. These include: refuge accommodation and support services for women and children who cannot safely remain in the family home; outreach (or floating support) services which offer intensive medium to

²⁰⁸ Imkaan 2008

long-term support for families living in the community; advice and advocacy projects which work with women who require less intensive support, and services for children and young people.

- 285.** The domestic violence sector has well-founded concerns that commissioning and procurement processes are bureaucratic and time-consuming; disadvantages smaller voluntary sector organisations that cannot compete for larger, more generic contracts; and unit cost rather than quality of service appears to remain the top priority. Support services must be independent, i.e. delivered by specialist voluntary sector providers. There is evidence that in some areas the move to procurement has directly resulted in loss of independence or the closure of specialist domestic violence services and service providers. Where generic service providers do not have sufficient skills or knowledge, women and children will be put at increased risk, ultimately at a cost to the public purse. Many generic services depend on specialist agencies to make referrals to, particularly for women from Black, Asian, Minority Ethnicity and Refugee (BAMER) communities. However, the threat to specialist services can – and has been – avoided if commissioners and procurement officers are well educated about the domestic violence sector, and domestic violence co-ordinators and existing service providers are involved in the commissioning and procurement process. National Service Standards are being developed by Women’s Aid for the domestic violence and sexual violence sectors that aim to ensure the provision of consistent high quality services for survivors and to inform standards for commissioning services. These Commissioning Standards will ensure that specialist, independent women’s services for survivors of domestic violence and sexual violence are provided in every local area. The Government has also committed to developing National Occupational Standards for domestic violence and sexual violence services which will contribute to the Government’s programme for up-skilling and developing the workforce.
- 286.** Another change is the increasing expectation to provide gender neutral services. Although we fully support the need for male survivors of domestic violence to have equal access to protection and support, there are clear arguments for retaining women-only services. Women want women-only services: Recent research found that 97% of women supported a women’s right to choose a woman-only support services following sexual assault; 90% of women think that it is very or quite important for women to be able to choose to see a woman professional when reporting crimes of harassment or domestic/sexual violence²⁰⁹. There is also a growing body of evidence that indicates that services which work with both women and men may not be optimal²¹⁰. Heterosexual men who access men’s services were actually more likely to be a perpetrator (either the main abuser or involved in ‘common couple violence’, meaning he and his female partner were abusive to one another), than a survivor. This poses a clear risk to the safety of women and children, and may deter women from accessing services. Local authorities often cite the Gender Equality Duty (GED) as the reason to deliver services to women and men. However, local authorities should be aware that reallocating funding from services to women to those for men may, in fact, put them in breach of the GED.
- 287.** National and local commissioning frameworks should provide specific funding and support to sustain and develop services for women from BAMER communities; for disabled women; for lesbian, bisexual and trans women; older and young women; women with problematic substance use, and women experiencing mental health problems. Funding for counselling services to meet the needs of women and children suffering mental health problems in the aftermath of abuse (particularly depression, self-harm and substance abuse) are poorly funded

²⁰⁹ The Women’s Resource Centre, 2007.

²¹⁰ Robinson and Rowland, 2006

and little training has been given to mental health professionals in this area, in spite of women reporting very poor responses in this area.

288. Research confirms that living with domestic violence is harmful for children and that there is a substantial overlap between domestic violence and the physical and sexual abuse of children²¹¹. Domestic violence was identified within *Every Child Matters* as a cause of vulnerability in children, and as having a negative impact on the child's ability to achieve his or her full potential across the five outcomes. Children who have experienced, witnessed or lived with domestic violence are at risk in a number of ways. Despite this, the National Children's Plan fails to mention the effects domestic violence has on the lives of children and young people and fails to acknowledge the importance of integrated working practices with local specialist domestic and sexual violence services. Many local services for children affected by domestic violence are inadequate and specialist provision is predominantly provided by local refuges and domestic violence services. Professionals delivering services under the *Every Child Matters* programme are often inadequately trained to identify domestic violence and to respond to the needs of children affected by domestic violence; and specialist children's services in refuges are starved of funds.

The WNC recommends:

- *that the government take appropriate steps to ensure that all women and children who have experienced domestic violence have access to a safe range of support and outreach services, including refuge provision, and that such services receive secure, statutory funding*
- *that the government endorses and enables local implementation of both the National Service Standards for Domestic and Sexual Violence and the National Occupational Standards for Domestic & Sexual Violence Services*
- *that the Government implements Commissioning Standards and Guidance that ensures that there are high quality domestic violence and sexual violence support services for women and children in every area*
- *that the Government support women's voluntary and community organisations that are providing 'by women, for women' services*
- *that the Government endorse the importance of, and secure funding for, specialised services for BAMER women, for disabled women; for lesbian, bisexual and trans women; older and young women; women with problematic substance use, and women experiencing mental health problems*

Child contact in cases involving domestic violence

289. Child contact applications and proceedings present a significant loophole through which stalking, harassment and violence by former partners can continue. The ongoing abuse of children not only discriminates against women and children in their ability to re-establish their lives following separation, but also places them at significant risk of further violence and in some cases of being killed, post separation.²¹² We welcome the extension of the legal definition of harming children, from 2005, to include harm suffered by seeing or hearing ill treatment of others (Section 120 of the Adoption and Children Act 2002). We also welcome the Family Justice Council report to the President of the Family Division (2007), recommending safe and positive contact, only, after a full assessment of any associated risks. Guidelines have now been issued on good practice of parental contact in cases where there is domestic violence. Whilst this attention is welcomed, there remain areas of concern;

²¹¹ Mullender, A., Hague, G., Imam, U.F., Kelly, L., Malos, E. & Regan, L. 'Children's Perspectives on Domestic Violence', 2002.

²¹² Report to the President of the Family Division on the Publication by the Women's Aid Federation of England Entitled: Twenty Nine Child Homicides with Particular Reference to the Five Cases where there was Judicial Involvement – Nicholas Wall

children must be placed at the centre of the process: their wishes and fears must be obtained and a thorough assessment of the impact of domestic violence must be carried out by a competent child-focused professional.

290. There needs to be a balance between children's right to maintain contact and the duty to protect children from harm in cases of parental separation. An area of persistent difficulty is child contact where unacceptable risks remain for children exposed to perpetrators of domestic violence. The judicial statistics for 2003 show that contact was refused in less than 1% of cases even though CAFCASS (the Children and Family Court Advisory and Support Service) has stated that allegations of domestic violence are involved in about 60% of the cases they deal with. It is vital that the Government follows the advice of the Family Justice Council which has said a cultural change is required, away from 'contact is always the appropriate way forward' to 'contact that is safe and positive for the child is always the appropriate way forward'²¹³.

The WNC recommends:

- *that the Government implements the section of the Children and Adoption Act that calls for a risk assessment to be brought before the court in cases involving domestic violence*
- *that the Government continues to monitor the implementation of guidelines on child contact and domestic violence, taking stronger action to ensure that the safety of women and children who have suffered abuse is paramount. This also includes many disabled women, who are reluctant to report abuse because of lack of support for their basic care needs*
- *that the Government ensures that children and young people be given a voice in all contact proceedings which involve them*

Prevention through work with perpetrators

291. Interventions with perpetrators are in their infancy in the UK. The focus so far has been on providing perpetrator programmes through community-based NGOs or through the Probation Service. Provision is patchy - some areas of the country have no provision at all. In the absence of places on Integrated Domestic Abuse Program's (IDAP's), the domestic violence charity Refuge is aware that perpetrators are put on anger management courses which are widely regarded as ineffective and inappropriate as they do not address the power and control inherent in domestic violence. In addition, all agencies who come into contact with perpetrators (such as social services, health, education, housing, police) should have systems which hold abusers to account and prioritise the safety of victims. Perpetrator programmes should never be implemented at the expense of provision and resources for women victims of abuse.
292. We commend the work of RESPECT, the National Association for Domestic Violence Perpetrator Programmes and Associated Support Services, who have developed a 'Statement of Principles and Minimum Standards of Practice' which outlines principles and minimum standards for perpetrator programmes and associated support services.
293. The National Association of Probation Officers undertook a survey in January 2007 of 15 areas and found that there are acute shortages of staff to run Integrated Domestic Abuse Programmes and up to 12 month waits before those with orders can get on one, by which time many sentences have expired and the perpetrator can no longer attend the programme. Victims are put at risk because of continued threats. There are also difficulties in finding perpetrator programmes for non-English speakers and perpetrators less than 21 years of age.

²¹³ Refuge, Policy Briefing on Children exposed to Domestic Violence, 2007

The WNC recommends:

- *that the Government develop and resource court mandated and voluntary prevention programmes through work with perpetrators of domestic violence and associated partner support services, based on the National Service Standards as outlined by RESPECT²¹⁴*

²¹⁴ www.respect.uk.net

ANNEX 1- ORGANISATIONS CONSULTED

1990 Trust
4Children
A Brave New World Ltd
AAINA Asian Women's Group
ABANTU international
Abbe Hayward
Abortion Rights
Active Learning Centre
ACWW, Kent Khawalien Association
Adept Community Development Agency
African and Caribbean Women's Association (ACWA)
African Women's Council/African Families Federation
African Women's Welfare Association
Afsana Dad
Age Concern Scotland
Age Concern, England
Agency for Culture and Change Management
Alison Jeffries
Alliance for Health Professionals
Al-Nisa Association NI
AMICUS
Amina the Muslim Women's Resource Centre
Amnesty International
Angel International GB
Ann Hope
Ann Swain
Annette Lawson
Arab International Women's Forum
Ardmonagh Family and Community Group
Ardoyne Women's Forum
Army Families Federation
Asian Women's Counselling Service
Associated Country Women of the World
Association for Improvements in the Maternity Services (AIMS)
Association for Women in Science and Engineering
Association of Baha'i Women UK
Association of Jewish Women's Organisations in the UK
Association of Radical Midwives
Association of Teachers and Lecturers
Association of Teachers' Widows
Association of Women Barristers
Association of Women Solicitors
Asylum Aid
Balliol Women's Society
Ballybeen Women's Centre
Ballyronan Woman's Group
Barbara Light
British Federation of Women Graduates
Communication Workers Union Women's Advisory Committee
Community Development Foundation - European and International Unit
Community Practitioners and Health Visitors Association
Community Transport Association Ltd
CONNECT
Conservative Women's National Council
Co-operative Women's Guild
Co-ordinated Action Against Domestic Abuse
Corona Worldwide
Craigavon Standing Conference of Women's Organisations
CROP
Cullyhanna Women's Group
Cunliffe Centre
Daphne MacNab
Daycare Trust
Derby Women's Centre
Derry Well Woman
Disability Rights Commission
Doris Henderson
Dr Fairhurst
Early Education
East Midlands Black Women's Forum
Eaves Housing
Education in Human Rights Network
Educational Institute of Scotland (EIS)
Elizabeth Sperling
Endometriosis UK
ENGENDER
Equal Opportunities Commission
Equality 2025
Equality and Diversity Forum
Equality and Human Rights Commission (EHRC)
Equality Now
EQUINOXCARE
Erika Kirchner
European Federation of Black Women Business Owners
European Union of Women - British Section
European Women's Lobby
Every Woman Ltd
Fair Play Partnership
Family and Youth Concern
Family Mediation Scotland
Family Planning Association
Family Planning Association (N Ireland)
Family Youth Concern
Farm Women's Club - Farmers Weekly (FWC)
FATIMA Women's Network
Fawcett Society
Federation of Women's Institutes of NI
Feminist Library and Information Centre
Footprints (UK)
FORWARD
Foundation for the Study of Infant Deaths
Foundation for Women's Art
Frances Alexander
Full Time Mothers
Fundango (UK) Ltd
Gender & Justice Policy Network
Gender in Education
Gender Statistics Users Group
GenEd

Genuine Empowerment of Mothers in Society
 GFS Platform for Young Women
 Gingerbread
 Girlguiding UK
 Girl's Brigade England and Wales, The
 Global Consultant on Public Health, FGM and Surgical
 reversals (GCPH)
 GMB Britain's General Union
 GMB Scotland Regional Rights Committee
 Greater London Authority
 Greater London Domestic Violence Project
 Greenwich Chief Executives Social Inclusion and
 Justice Division
 Griffith University School of Medicine
 Griot Institute
 HALT(Help, Advice & Law Team)
 Haven Paddington
 Haven Whitechapel
 Hilda Stearn
 Hillcroft College
 Hindu Council of Birmingham
 Hindu Women's Network
 Hope Medical Enterprises
 Housing Diversity
 Housing For Women
 Hull Women's Centre
 I Village UK
 Infertility Network UK
 Institute of Chartered Accountants-Workplace 21st
 Century
 Institute of Consumer Services
 Institute of Lady of Mercy
 International Alliance of Women
 International Council of Jewish Women
 International Federation for Home Economics (UK
 section)
 International Federation of University Women
 International Network of Liberal Women
 Irish Congress of Trade Unions
 Islamic Foundation
 Jackie Draper Associates
 Janet Veitch
 Jeanne Gregory
 Joint Council for the Welfare of Immigrants
 Josephine Butler Society
 Joyce Scropton CBE
 June Ayling
 Junior League of London
 Kalayaan
 Karibu
 Kate Fussell
 Kurdish Women's Rights Watch Ltd
 Labour Party
 Lambeth Young Women's Project
 Lancaster University
 League of Jewish Women
 LeicesterHER day Trust
 Lesbian Line North Wales
 LGB Forum Cymru/Stonewall
 Libby Horsfall
 Lilith and POPPY Project
 London Borough of Islington Women's Equality Unit
 London Metropolitan University Child and Women
 Abuse Studies Unit
 London South Bank University
 Madeline Williams
 Mandana Hendessi
 Margaret Lucy Wilkins
 Margaret Mary Stokes
 Marion Scott
 Married Women's Association
 Mary Seacole Memorial Association
 Mary Thompson
 Medact, The Reaching Out Project
 Medical Women's Federation
 Men, Women and God
 Menopausal Research and Information Service
 Merched Y Wawr
 Methodist Women in Ireland
 Middlesex University
 Milton Keynes Women & Work Group
 Minerva - The Independent West Midlands Women's
 Alliance
 Moira Fanell
 Mothers' Union
 Mrs Catchpole
 Mrs Ramsden
 Ms Addington
 Ms Cigno
 Ms Clayton
 Ms Dalal
 Ms Jawli
 Ms Snabb
 Multi Cultural Resource Centre
 Muslim Voice UK
 Muslim Women Association
 Muslim Women's Helpline
 Naomi Salmon
 National Alliance of Women's Organisations (NAWO)
 National Assembly of Women
 National Association for Colitis and Crohn's Disease
 (NACC)
 National Association of Diocesan Advisors in Women's
 Ministry
 National Association of Head Teachers
 National Association of Ladies' Circles (GB+NI)
 National Association of Widows
 National Association of Women Pharmacists
 National Association of Women's Clubs
 National Board of Catholic Women of England and
 Wales
 National Childbirth Trust
 National Childminding Association
 National Consumer Council
 National Council of One Parent Families
 National Council of Women of Great Britain
 National Federation of Women's Institutes
 National Federation of Women's Institutes Wales
 National Rape Crisis England and Wales
 National Women's Register
 NETWORK
 New Ways to Work

Newham Asian Women's Project
 Nexus Institute
 Nicola Foster
 North East Asian Women' Network
 North East Ecumenical Women's Group
 North London Cooperative Party Council
 Northampton Women's Aid
 Northern Ireland Women's European Platform
 NU-U
 OBJECT
 Older Women's Network UK
 One Parent Families
 One Parent Families Scotland
 Opportunity Now
 Overseas Women's Club
 Oxfam
 Padma Bhatt
 Parentline Plus
 Parents at work
 Pauline Anne Jones
 Pennell Initiative for Women's Health
 Peterborough Women's Centre
 Pink Parents
 Pre-School Learning Alliance
 Preston PCT
 Probus Women's Housing Society Ltd
 Professional Coaching and Development Consultancy
 Prowess
 Public and Commercial Services Union
 Purna Sen –London School of Economics
 Queen's University Student's Union
 Rainbo
 Rape Crisis (North Staffs and South Cheshire)
 Rape Crisis and Sexual Abuse Centre (NI)
 RASASC (Rape and Sexual Abuse Support Centre)
 Refuge
 Refugee Action
 Refugee Council
 Relate
 Relatives and Residents Association
 RIBA Equality and Diversity Forum
 Rights of Women
 Rosemary Ballaster
 Rosy Amin-Mannion
 Royal College of Midwives
 Royal College of Nursing
 Royal College of Obstetricians and Gynaecologists
 Royal College of Surgeons of England
 Royal Society of Chemistry - Women Members
 Network
 Safra Project
 Sahara Communities Abroad (SACOMA)
 Sahyog 40 + Group
 Salvation Army
 Sanchia Smithson
 Savana
 School of Business and Social Science
 School of Sociology and Social Policy
 Scotland, Marsha Scott (consulted her Scottish
 network)
 Scottish Baptist Women's Fellowship
 Scottish Council for Voluntary Organisations (SCVO)
 Scottish Human Rights Centre
 Scottish National Party - Women's Forum
 Scottish Refugee Council
 Scottish Women's Aid
 Scottish Women's Convention
 Scottish Women's Rural Institutes
 SERTUC Women's Rights Committee
 Sheffield Women's Forum
 Single Parent Action Network
 Sizanani Africa
 Society of the Innocents
 Society of Women Writers and Journalists
 Soroptimist International of Great Britain and Ireland
 South Bank Women's Centre
 South Essex Rape and Incest Crisis Centre (SERICC)
 South Wales Police
 South Wales Police Minority Support
 Southall Black Sisters
 Southern Ladies in Commerce (SLIC)
 Stakeholder Forum for a Sustainable Future
 Standing Conference of Women's Organisations
 Standing Together Against Domestic Violence
 Stoke Community Culture Group
 Stonewall Cymru
 Stonewall Scotland
 STUC Women's Committee
 Susan Gibney
 Suzy Lamplugh Trust
 Swansea Chinese Community Co-op
 Takura Spiwe
 The Amar International Charitable Foundation
 The Hope Foundation for Children
 The London Borough of Lambeth
 The London Centre for Personal Safety
 The Miscarriage Association
 The Mothers Union
 The National Group on Homeworking
 The Princes Trust
 The Roselle Antoine Foundation
 The Royal British Legion Women's Section
 The Union of Catholic Mothers
 The Women's Arts Association
 Threshold Women and Mental Health Initiative
 Toc H
 Todd Consulting
 Townswomen's Guild – Northern Ireland
 Townswomen's Guilds
 Trade Unions Congress
 Training for Women Network
 Training Opportunities
 Transport and General Workers' Union
 Trisha Greenhalgh
 TULIP GROUP
 UK Asian Women's Conference
 UK Resource Centre for Women in Science
 Engineering Technology
 UK Sport
 UKJCW
 UNIFEM
 UNIFI (Glasgow)

Union Of Catholic Mothers, The
 UNISON
 United Kingdom Association for the United Nations
 Development
 United Kingdom Association for the United Nations
 Development
 United Nations Association of Great Britain and
 Northern Ireland
 United Nations Environment and Development UK
 United Reformed Church
 United Reformed Church Synod of Scotland Women's
 Union
 University of Bristol
 University of Sunderland
 University of Warwick
 University Women's Club
 Valerie Noble
 vis-à-vis Research Consultancy Ltd.
 Vivienne Rubinstein
 WAITS (Women Acting in Today's Society)
 Wales Assembly of Women
 Wales Domestic Abuse Helpline
 Wales Women National Coalition
 Wales Women's European Network
 WAND (Women's Association for African Networking
 and Development)
 Warwick Anti-Sexism Society (WASS)
 Widows for Peace and Democracy
 Windsor Women's Centre
 WiTEC UK - European Association for Women in
 Science, Engineering and Technology
 WIZO.UK
 Womankind Worldwide
 Women and Health
 Women and Manual Trades
 Women as Role Models
 Women Back to Work
 Women for Women International UK
 Women in Architecture
 Women in Banking and Finance
 Women in Business
 Women in Film and Television
 Women in Journalism
 Women in Management Network (WIM)
 Women in Medicine
 Women in Music
 Women in Physics Groups
 Women into Business
 Women into Computing
 Women into Politics
 Women Into Work – Building Futures
 Women Liberal Democrats (WLD)
 Women Living Under Muslim Laws
 Women of Africa
 Women of Faith Coalition
 Women Returners Network (WRN)
 Women Together Moving On
 Women Welcome Women Worldwide
 Women's Aid Federation of England
 Women's Budget Group
 Women's National Commission:
 Baroness Joyce Gould (Chair)
 Ranjana Bell (Commissioner)
 Baroness Anita Gale (Commissioner)
 Bronagh Hinds (Commissioner)
 Professor Liz Kelly CBE (Commissioner)
 Brenda King (Commissioner)
 Sabin Malik (Commissioner)
 Baroness Margaret Prosser (Past Chair)
 Women's Network for Peace and Freedom
 Women's Network of the Methodist Church
 Women's Pioneer Housing Limited
 Women's Resource and Development Agency
 Women's Resource Centre (WRC)
 Women's Royal Voluntary Service (WRVS)
 Women's Sports Foundation (WSF)
 Women's Support Network
 Women's Technology and Education Centre
 Women's Voice
 Worcestershire Research Training and Consultancy
 Workers' Educational Association
 Working Families
 World Association of Girl Guides and Girl Scouts
 World Federation of Methodist and Uniting Church
 Women
 Young Business and Professional Women's Club
 Youthvoice Worldwide
 YWCA England & Wales

ANNEX 2

NOTE ON CEDAW AND DEFINITION OF DISCRIMINATION

1. I have been asked by the Women's National Commission, part of the Government Equalities Office, to consider Article 1 (definition of Discrimination) of CEDAW for the purposes of their shadow report. In particular, I am asked to consider:
 - a. Whether the definition of Discrimination under Article 1 of CEDAW has been incorporated into the Constitution and laws of the U.K.
 - b. Whether the laws address both direct and indirect (unintended) discrimination?

CEDAW Definition

2. CEDAW defines discrimination, as follows:

“For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.” (Article 1)
3. Both direct and indirect (whether intentional or unintentional) sex discrimination are outlawed by the Sex Discrimination Act 1975.

Direct discrimination

4. As to the U.K.'s anti-discrimination law, the Sex Discrimination Act 1975 defines discrimination and outlaws it for certain purposes. Direct discrimination is defined as:

“In any circumstances relevant for the purposes of any provision of this Act, other than a provision to which subsection (2) applies, a person discriminates against a woman if—

 - (a) on the ground of her sex he treats her less favourably than he treats or would treat a man...” (section 1(1)(a) and 1(2)(a)).
5. Gender reassignment discrimination is a form of sex discrimination (P v S and Cornwall County Council (case C-13/94) [1996] IRLR 347; KB v National Health Service Pensions Agency and Another (Case C-117/01 [2004] IRLR 240) and direct gender reassignment discrimination is also proscribed:

“A person (“A”) discriminates against another person (“B”) in any circumstances relevant for the purposes of—

 - (a) any provision of Part II,
 - (b) section 35A or 35B, or
 - (c) any other provision of Part III, so far as it applies to vocational training, if he treats B less favourably than he treats or would treat other persons, and does so on the ground that B intends to undergo, is undergoing or has undergone gender reassignment.” (section 2A(1)).
6. These are narrower definitions of discrimination than those required by Article 1 of CEDAW. Article 1 addresses “any distinction, exclusion or restriction made on the basis of sex”. The SDA requires, however, that the treatment be on “ground

of *her sex*” ie the victim’s sex. This means that less favourable treatment of a person because of another’s sex or because of perceived sex (a person is believed to be of a particular sex, even if they are not in reality) is *not covered by the SDA* concept of discrimination but is covered by CEDAW.

7. The SDA can be contrasted with the Race Relations Act 1976 which defines direct discrimination as follows: “A person discriminates against another in any circumstances relevant for the purposes of any provision of this Act if— (a) on racial grounds he treats that other less favourably than he treats or would treat other persons”. This definition does not require that the treatment be on the basis of the victim’s race – but that the treatment be on racial grounds. This has the effect that discrimination because of a person’s association with a person of a particular race; or because of a perception of a person’s race is covered: Weathersfield (t/a Van and Truck Rentals) v Sargent [1999] ICR 425; Showboat Entertainment Ltd v Evans [1984] 1 WLR 384).
8. EU law requires, like CEDAW, that this wider form of direct discrimination is outlawed (see Article 2(2) of the Equal Treatment Directive 76/207/EEC, as amended by Directive 2002/73/EU: “direct discrimination: where one person is treated less favourably on grounds of sex than another is, has been or would be treated in a comparable situation.” (The Directive refers in terms to CEDAW in its Recitals (see Recital 2)). The Government has not amended the SDA, however, to give effect to this requirement. Directive 76/207/EEC, as amended by Directive 2002/73/EU, applies to employment and related spheres – discrimination in the provision of “goods and services” is addressed below.

Indirect Discrimination

9. The SDA defines two forms of indirect discrimination. The definitions are probably adequate to meet the requirements of CEDAW in my view. However, the definitions of indirect discrimination do *not* cover indirect gender reassignment discrimination. Indirect gender reassignment discrimination is a form of sex discrimination (KB v National Health Service Pensions Agency and Another (Case C-117/01 [2004] IRLR 240)) and should therefore be regulated by the SDA.
10. Contractual benefits (pay etc) are covered by the Equal Pay Act 1970 (“EPA”). The EPA does not address indirect discrimination in terms at all. To give effect to EU law it has been interpreted to cover indirect discrimination. However, recent domestic case law holds that there is no obligation on an employer to legally *justify* indirect discrimination if he shows that any difference in pay or adverse impact is not discriminatory, in the sense of being attributable to a difference of gender (*Armstrong & Others v Newcastle Upon Tyne NHS Hospital Trust [2006] IRLR 124*). Only then, according to the case law, is it necessary for the employer to show objective justification. This is so notwithstanding that for indirect discrimination it is precisely the fact that a particular practice has disparate impact on women, irrespective of whether the practice itself is deliberately attributable to gender, that needs to be justified. This approach is inconsistent with EU law and CEDAW (which is concerned with ‘*effects*’, see Article 1) and means (unless the case law is overturned) that employers do not need to objectively justify practices which have the effect of disadvantaging women, unless it is shown that any consequent difference in pay is attributable to sex.

Harassment

11. Harassment is a form of discrimination.
12. The SDA outlaws harassment which it defines as:
“Harassment, including sexual harassment
4A(1) For the purposes of this Act, a person subjects a woman to harassment if— (a) on the ground of her sex, he engages in unwanted conduct that has the purpose or effect— (i) of violating her dignity, or (ii) of creating an intimidating, hostile, degrading, humiliating or offensive environment for her, (b) he engages in any form of unwanted verbal, non-verbal or physical conduct of a sexual nature that has the purpose or effect— (i) of violating her dignity, or (ii) of creating an intimidating, hostile, degrading, humiliating or offensive environment for her, or (c) on the ground of her rejection of or submission to unwanted conduct of a kind mentioned in paragraph (a) or (b), he treats her less favourably than he would treat her had she not rejected, or submitted to, the conduct. (2) Conduct shall be regarded as having the effect mentioned in sub-paragraph (i) or (ii) of subsection (1)(a) or (b) only if, having regard to all the circumstances, including in particular the perception of the woman, it should reasonably be considered as having that effect. (3) For the purposes of this Act, a person (“A”) subjects another person (“B”) to harassment if— (a) A, on the ground that B intends to undergo, is undergoing or has undergone gender reassignment, engages in unwanted conduct that has the purpose or effect— (i) of violating B’s dignity, or (ii) of creating an intimidating, hostile, degrading, humiliating or offensive environment for B, or (b) A, on the ground of B’s rejection of or submission to unwanted conduct of a kind mentioned in paragraph (a), treats B less favourably than A would treat B had B not rejected, or submitted to, the conduct. (4) Conduct shall be regarded as having the effect mentioned in sub-paragraph (i) or (ii) of subsection (3)(a) only if, having regard to all the circumstances, including in particular the perception of B, it should reasonably be considered as having that effect. (5) Subsection (1) is to be read as applying equally to the harassment of men, and for that purpose shall have effect with such modifications as are requisite. (6) For the purposes of subsections (1) and (3), a provision of Part 2 or 3 framed with reference to harassment of women shall be treated as applying equally to the harassment of men, and for that purpose will have effect with such modifications as are requisite”. (section 4A).
13. This is narrower than EU law and, in my view, CEDAW requires, because for ‘harassment’ (as opposed to explicit forms of sexual harassment) the treatment must be on the grounds of the victim’s sex.
14. Article 2(2) Article 2(2) of the Equal Treatment Directive 76/207/EEC, as amended by Directive 2002/73/EU²¹⁵ provides that harassment occurs in the following circumstances:
“harassment: where an unwanted conduct *related* to the sex of a person *occurs* with the purpose or effect of violating the dignity of a person, and of creating an intimidating, hostile, degrading, humiliating or offensive environment,
sexual harassment: where any form of unwanted verbal, non-verbal or physical conduct of a sexual nature *occurs*, with the purpose or effect of violating the

²¹⁵ As mentioned above, the Directive refers in terms to CEDAW in its Recitals (see Recital 2).

dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment.” [emphasis added]

15. Section 4A(1)(a), SDA requires that any unwanted conduct be ‘*on the ground of her sex*’. The Directive, however, requires that protection be afforded against unwanted conduct ‘*related to*’ the sex of a person. This is clearly a broader concept than ‘on the ground of her sex’, addressing not only conduct which is engaged in *because of* a woman’s sex, but any conduct that has any connection with her sex. This would include gender-specific conduct or abuse which might not be engaged in *because of* the sex of the victim, in that different but equally hurtful gender-specific conduct might be used in relation to employees of the opposite sex, but which is clearly *related to* the sex of the victim because its precise form is dictated by and targeted at her sex. Such conduct may be caught by the prohibition in section 4A(1)(b) of unwanted conduct ‘of a sexual nature’. However, this would not always be the case. Conduct or abuse may be gender-specific and thus related to a person’s sex without being ‘of a sexual nature’ (see the examples in Pearce v Governing Body of Mayfield School [2003] ICR 937). The definition of harassment in the SDA is not, therefore, compliant with EU law and the High Court has so concluded: Equal Opportunities Commission v Secretary of State for Trade and Industry [2007] EWHC 483 (Admin); [2007] IRLR 327). Despite this ruling of the High Court, the Government has not introduced correcting legislation.
16. Further, the broader meaning of harassment in the Directive is such as to cover some incidents of third party harassment – that is, where the harassment is done by someone other than the person caught by the unlawful acts. The most common example is where a worker is harassed by someone using her employer’s premises – eg a waitress being harassed by a customer – and her employer has done nothing to stop it. Under the present meaning of harassment, the waitress would not be able to bring a claim against her employer unless she could show that her employer had himself failed to act, *on grounds of her sex*. The Directive requires that a broader meaning of harassment is adopted so as to cover some incidents of third party harassment, as the High Court has so held: Equal Opportunities Commission v Secretary of State for Trade and Industry [2007] EWHC 483 (Admin); [2007] IRLR 327 (see too; Recital 9 to Directive 2002/73, “employers and those responsible for vocational training should be encouraged to take measures to combat all forms of sexual discrimination and, in particular, to take preventative measures against harassment and sexual harassment in the workplace, in accordance with national legislation and practice.”). Despite this ruling of the High Court, the Government has not introduced correcting legislation.

Pregnancy

17. The SDA defines pregnancy related discrimination as occurring where “*on the ground of the woman’s pregnancy, the person treats her less favourably than he would treat her had she not become pregnant*” (section 3A). This requirement for a comparator in a pregnancy discrimination case is contrary to EU law (Webb v EMO Air Cargo (UK) Ltd (No.2) [1995] ICR 1021; Brown v Rentokil Case 394/96 [1998] ECR I – 4185; Mahlburg v Land Mecklenburg-Vorpommern [2002] IRLR 276, ECJ). The fact that the comparator is the woman herself before pregnancy

is nothing to the point – requiring any non pregnant comparison as a condition of protection undermines the guarantees provided by EU law and CEDAW.

18. The Equal Treatment Directive 76/207/EEC, as amended by Directive 2002/73/EU requires that Member States outlaw ‘less favourable treatment of a woman *related to pregnancy or maternity leave*’ (Article 2(7)). This protects a woman who is less favourably treated for a reason relating to pregnancy even where she would have been treated in the same way had she not been pregnant – for example, a woman who is disciplined for taking a toilet break more than twice a day when not pregnant is treated less favourably for a reason relating to pregnancy if she is treated in the same way (ie disciplined for taking a toilet break more than twice a day) when she is pregnant and needs to use the toilet more frequently for that reason. Such an approach is also inconsistent with CEDAW which requires that “*any distinction, exclusion or restriction made on the basis of sex*” constitutes discrimination.
19. The High Court has ruled that the approach in the SDA to pregnancy discrimination is contrary to EU law because of the requirement for a comparator: Equal Opportunities Commission v Secretary of State for Trade and Industry [2007] EWHC 483 (Admin); [2007] IRLR 327. Despite this ruling of the High Court, the Government has not introduced correcting legislation.

Intersectional Discrimination

20. U.K. anti discrimination law does not address intersectional forms of discrimination. The SDA addresses sex discrimination only and does not regulate discrimination connected to the intersection of certain characteristics (eg as in the experience of certain ethnic minority women in certain areas; older women; disabled women etc). Where one can show that treatment was on the grounds of sex *and* race – and therefore comparatively less favourable to the treatment afforded a man and a person of a different race – then claims will lie under the SDA and Race Relations Act 1976. However, where the experience distinctly derives from the experience of the intersection of those characteristics, the legislation will not address it. CEDAW and CERD recognise intersectional discrimination and require it to be addressed (see *General Recommendation No. 25: Gender related dimensions of racial discrimination: Gen. Rec. No. 25. (General Comments)*. 20/03/2000: “The Committee notes that racial discrimination does not always affect women and men equally or in the same way. There are circumstances in which racial discrimination only or primarily affects women, or affects women in a different way, or to a different degree than men. Such racial discrimination will often escape detection if there is no explicit recognition or acknowledgement of the different life experiences of women and men, in areas of both public and private life... Certain forms of racial discrimination may be directed towards women specifically because of their gender, such as sexual violence committed against women members of particular racial or ethnic groups in detention or during armed conflict; the coerced sterilization of indigenous women; abuse of women workers in the informal sector or domestic workers employed abroad by their employers. Racial discrimination may have consequences that affect primarily or only women, such as pregnancy resulting from racial bias-motivated rape; in some societies women victims of such rape may also be ostracized. Women may also be further hindered by a lack of access to remedies and complaint mechanisms for racial

discrimination because of gender-related impediments, such as gender bias in the legal system and discrimination against women in private spheres of life.” The U.K. does not, therefore, give proper effect to CEDAW in defining gender related discrimination as occurring only where the treatment is related to sex alone.

Goods and Services Directive

21. The U.K. should have implemented the terms of the Gender Goods and Services Directive 2004/113/EC (of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services). Council Directive 2004/113/EC requires Member States to introduce laws to outlaw gender discrimination, broadly, in the provisions of goods and services. Member States must give effect to its terms by 21 December 2007.

22. The Sex Discrimination Act 1975 (Amendment) Regulations 2007 were laid before Parliament on 28 November 2007 purportedly to give effect to the Directive in Great Britain. These regulations, amongst other things, contained the same flawed definition of harassment as described above and which were found not to comply with the Directive in the Equal Opportunities Commission v Secretary of State for Trade and Industry [2007] EWHC 483 (Admin); [2007] IRLR 327 mentioned above. The Government withdrew these regulations shortly before Christmas, before they were enacted. This means that the U.K. has not complied with its obligations under the Directive to implement legislation by 21 December 2007. The reasons for withdrawing the regulations are unclear. The Government has said that they are “now considering whether laying draft UK-wide Regulations would be a more effective way of ensuring that the UK meets its European obligations. While this means legislating after 21 December 2007, the Government is committed to ensuring that the UK complies with its European law obligations as quickly as possible. Work is well advanced to achieve this early in the New Year.” However, it is relevant to note that the withdrawal followed a damning report by the Parliamentary Joint Committee on Statutory Instruments²¹⁶ which expressed their view as follows: “*The committee considers that the principle underlying the courts ruling [in the Equal Opportunities Commission case] applies equally to the definition of harassment in the 2004 Directive and that therefore regulations 6, 7 and 8(b) (prohibiting harassment) of these regulations do not adequately implement the relevant part of that Directive*” and concluded that “*the use of powers in the manner proposed is an unexpected use of the powers conferred by section 2(2) [of the European Communities Act] and the Committee reports [to House of Lords and House of Commons] accordingly*”.²¹⁷ The Report noted that the Government’s Equalities Office “*accepts that (having regard to the similarity between the definitions of harassment in directives 2002/73/EC and 2004/113/EC) there may be a risk of challenge to the harassment provisions in this Instrument pending the amendments to section 4A described above*”²¹⁸

23. In any event, there has been no implementation of the Directive and the U.K. are in breach of their EU obligations. The Directive again refers in terms to CEDAW in its Recitals (see Recital 2).

²¹⁶ Available at <http://www.publications.parliament.uk/pa/jt200708/jtselect/jtstatin/25/25.pdf>.

²¹⁷ At 3.

²¹⁸ At 9(vii).

24. The Directive contains the same definitions of discrimination as are contained in the Equal Treatment Directive 76/207/EEC, as amended by Directive 2002/73/EU. Accordingly, the absence of legislation implementing the Directive means that the flaws described above applicable in the employment and related fields apply equally in relation to the provision of goods and services: (a) the meaning given to the concept of direct discrimination is too narrow for it to comply with EC law/CEDAW (b) the concept of indirect discrimination does not apply to gender reassignment discrimination, contrary to EC law/CEDAW (c) the meaning given to the concept of harassment is too narrow for it to comply with EC law/CEDAW (d) the meaning given to the concept of pregnancy discrimination is too narrow for it to comply with EC law/CEDAW (e) there is no provision addressing intersectional discrimination.
25. I hope this is of assistance to those instructing me and if I can be of any further help I hope they will not hesitate in contracting me.

KARON MONAGHAN
MATRIX CHAMBERS, LONDON
11 February 2008