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An examination of the reporting procedures of student-to-student gender-based violence (GBV) at Scottish Higher Education Institutions (HEIs).

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Submitted in fulfilment of the requirements of the degree of LLM (by Research)

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Abstract

This research begins by providing the legal and statistical context of gender-based violence (GBV), offering prevalence statistics in the criminal justice system and HEIs over the past two decades. It explores how universities should respond based on legal duties and sector guidance, ranging from the Zellick Report from the 1990s to contemporary strategies like *Equally Safe in Higher Education*. It is noted that data specific to Scotland is limited, and advocates for unique analysis separate from UK-wide surveys.

The primary data in this research focuses on the reporting mechanisms of Scottish HEIs, categorising institutions based on their online reporting tools. The evaluation identifies the Report + Support tool as the most comprehensive option, however at the very least the presence of an online tool for reporting GBV should be present in all HEIs.

A thematic analysis of issues arising when reporting GBV identifies two broad categories: socio-cultural "pull" factors discouraging reports, and procedural "push" factors causing distress. The analysis primarily focuses on pull factors, due to the ease of obtaining information on pre-reporting steps, acknowledging challenges in assessing post-report actions.

Conclusions highlight the lack of consistency across Scottish HEIs in supporting students reporting GBV and make four recommendations to achieve greater uniformity including reassessing funding, establishing a minimum standard of good practice, centralising procedures, and involving students as key stakeholders.

Table of Contents

Abstract	1
List of Authority	4
Acknowledgments	5
Author's Declaration	6
Introduction	7
Chapter 1: Gender-based Violence (GBV)	12
1.1 GBV in Academia	12
1.2 GBV and the law in Scotland	16
1.2.1 Domestic Abuse	16
1.2.2 Rape and Other Sexual Offences	18
1.3 The extent of GBV in Scotland	19
1.4 Prosecution Statistics	20
1.5 The extent of GBV in universities	21
1.6 The role of universities in tackling GBV	25
1.6.1 Legal duties of universities	25
1.6.2 University students as consumers	27
1.6.3 Enforcing a duty of care	27
1.7 How should universities tackle GBV – the guidance so far	28
1.7.1 The Zellick Guidelines	28
1.7.2 Changing the Culture Report – Universities UK	29
1.7.3 Scottish guidance	31
1.7.4 Equally Safe in Higher Education (ESHE) Toolkit	31
Chapter 2: Reporting GBV and Complaint Procedures	33
2.1 What can students make complaints about?	33
2.2 How can students make a report?	36
2.2.1 Report + Support HEIs	37
2.2.2 HEIs with alternative report mechanisms	47

2.2.3 HEIs without a dedicated online reporting mechanism	54
2.3 How do HEIs respond to a formal report of GBV?	60
2.3.1 Report + Support HEIs	60
3.4.2 HEIs with an Alternative Online Reporting Tool	61
3.4.3 HEIs without a dedicated online report receipt mechanism	62
Chapter 3: Evaluation of the reporting processes	64
3.1 Informal reporting and a culture of resilience	64
3.1.1 Student Unions	66
3.1.2 Untrained Staff and Casual Contracts	67
3.2 Issues with the formal reporting procedure	68
3.2.1 Expectations vs Reality	70
3.2.3 Systematic reinforcing of power imbalances – compounding the issue	73
3.2.4 Lack of knowledge of how procedures operate	74
3.3 Procedural issues and ‘criminal justice drift’	74
3.3.1 Redisclosures	75
3.3.2 Side lining the reporting party	75
3.3.3 Inadequate interventions	76
3.3.4 Adversarial and litigious processes – Criminal Justice Drift	81
3.3.5 Cross-institutional knowledge sharing	83
Chapter 4: Conclusion	85
4.1 Consistency	85
4.2 Funding	86
4.3 Minimum Standards – <i>The Emily Test Charter</i>	87
4.4 Centralisation of procedures	87
4.5 Students as key collaborators	88
4.7 Conclusions	89
Bibliography	90

List of Authority

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US Legislation

Campus Sexual Violence Elimination Act (SaVE Act) (2013)

Title IX, Education Amendments of 1972, 20 U.S.C. §§ 1681-1688

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Author's Declaration

I declare that, except where explicit reference is made to the contribution of others, that this dissertation is the result of my own work and has not been submitted for any other degree at the University of Glasgow or any other institution.

Printed Name: *Phoebe J Reilly*

Signature:

Date: *1st December 2023*

Introduction

Over the past three decades, higher education institutions (HEIs) have been increasingly identified as sites of gender-based violence (GBV).¹ Resultingly, guidance has been provided to institutions on how they should facilitate the reporting of GBV, and how procedures should be structured in a way that best protects the welfare of all parties.² Underpinning this guidance has been a number of surveys highlighting the prevalence of GBV in HEIs across the UK. However, Scottish HEIs have rarely been the focus due to the comparatively small size of the country compared with England.³

As such, it is difficult to assess how HEIs specifically in Scotland respond to a complaint of student-to-student GBV in isolation, particularly as general data will also reflect *all* types of GBV (staff to staff, staff to student etc.). So, as well as having limited Scottish data, there is also limited data on this specific type of GBV (i.e., student-to-student perpetrated). An additional issue is that even where guidance has been specific to Scotland – for example with the *Equally Safe* strategy,⁴ – there has been no requirement that HEIs structure their reporting processes in any one way. The outcome is that each HEI provides a slightly different set of options for students who wish to make a report of GBV to the institution, which creates something of a location lottery.

Methodology

At the outset of this research project, the existing literature on GBV, GBV in academia, and GBV in UK HEIs was examined in order to understand the current prevalence, guidance given to HEIs, and existing issues already identified within the sector.

¹ For example, results a recent survey by UniSafe's, which gathered information from 46 Universities across Europe, show that 62% of respondents had experienced gender-based violence. See: 'Gender-based violence and its consequences in European Academia' (November 2022) Available at <https://unisafe-gbv.eu/wp-content/uploads/2022/11/UniSAFE-survey_prevalence-results_2022.pdf>

² Ranging from the Zellik report of the 1990s, to the 2015 *Changing the Culture* taskforce and subsequent reports, to the Scottish Government's *Equally Safe* strategy in 2018. These developments are detailed in Chapter 1.

³ There are 19 HEIs in Scotland, compared with 252 in England for the year 2020/21. Higher Education Statistics Agency (HESA), 'Who's studying in HE?' (31 January 2023). Available at: <<https://www.hesa.ac.uk/data-and-analysis/students/whos-in-he>>

⁴ Anni Donaldson, Melanie McCarry and Roisin McGoldrick 'Equally Safe in Higher Education Toolkit: Guidance and Checklist for Implementing a Strategic Approach to Gender-based Violence Prevention in Scottish Higher Education Institutions' (2018) University of Strathclyde.

Having found that much of the focus has been on UK-wide surveys, with little representation for Scottish HEIs, it was concluded that the core of this thesis would be formed of a primary data collection on the current reporting mechanisms of each HEI in Scotland. Due to the limited scope of this project, it was not possible to undertake interviews or surveys, for example with either students who have used the mechanisms or staff responsible for setting them up, and therefore was restricted to observation of online resources. This was deemed appropriate as student life at HEIs in Scotland involves a heavy reliance on online resources – particularly following the COVID-19 pandemic, where most if not all of university life was moved online. Further, an observation of each HEI’s online GBV resources allows for an insight into how information on GBV reporting is disseminated to the student population. By searching online for a way to report GBV as a student at each HEI, it was hoped that the student journey through this process could be emulated as much as possible, short of interviewing students who had made a true report.

Nonetheless it is recognised that the findings presented may not reflect the universal experience of students at each of the HEIs, owing to the contextual and human-led nature of institutional responses to GBV. Furthermore, the availability of the information for analysis was contingent on the transparency of the institutions, meaning that it was only possible to include the published guidance and procedures in analysis, and not any specific guidance or reporting options provided *ad hoc* by individual members of staff.⁵

The objective of this was to establish how HEIs in Scotland receives GBV reports from students. Each HEI was assessed for how well it encompassed a trauma-informed and survivor-centred approach, as the view taken in this research is that this is the most beneficial to students and is appreciative of the lived experience of victim-survivors. Throughout the research, mention will be made of these terms; a ‘trauma-informed’ approach, alongside descriptions of ‘survivor-centred’ language and policy. In the central publication by Clarissa J. Humphreys and Graham J. Towl – *Stopping Gender-based violence in Higher Education* – a comprehensive approach to tackling student GBV is defined as the following:

⁵ The difference between the expectations and reality of reporting procedures is addressed in Chapter 3.

*‘A comprehensive institution-wide approach, defined “as an ethical approach that is **trauma-informed, survivor-centred, human rights-based and social justice-based** whilst being intersectional and requiring perpetrator accountability’.*⁶

Many of the six elements outlined in this approach will be addressed in this research.⁷ Centrally, the terms ‘trauma-informed’ and ‘survivor-centred’ appear frequently in the literature, as well as in publications for and from the sector. Definitions therefore are not stable and vary across publications. However, the wording suggested by Humphreys and Towl will be followed in this research. This understands a trauma-informed approach as one which is aware of the potential traumatic impact GBV has victim/survivors, and the repercussions of this, as well as the risk of re-traumatisation through internal investigations and disciplinary procedures. Such an approach would try as much as possible to avoid the latter, while making any adjustments necessary to accommodate for the trauma of the victim/survivor in order to respect their autonomy in the process. This could be achieved through the language used, the options for making disclosure, or even an institutional statement that highlights an understanding of the impact of GBV.

Not dissimilarly, a survivor-centred approach will respect the autonomy of the victim/survivor by giving them the power and authority to choose how they wish to respond to an incident(s) of GBV, whether that be making a formal complaint or solely seeking support. A survivor-centred approach also involves the institutional challenging of rape-myths and a culture of victim-blaming, for example by recognising that many victim/survivors may feel the event is not serious enough to report but ensuring that if a report is desired then that option will be made available to the student.

The motivation behind highlighting these approaches is that by incorporating them, institutions are thought to be less likely to exclude a member of the university community from accessing the support available. By ensuring that HEI approaches to student GBV are trauma-informed and survivor-centred, their policies and practices will be better suited to the needs of all students, regardless of how a particular student responds to or acts following the incident of

⁶ Clarissa Humphreys and Graham Towl (eds) *Stopping Gender-Based Violence in Higher Education: Policy, practice, and partnerships* (Routledge, Taylor & Francis Group 2023) 173

⁷ For example, human rights-based approaches are acknowledged in Chapter 1’s discussion of legislative duties that HEIs have to protect student wellbeing and prevent GBV under human rights legislation.

GBV. With this in mind, individual aspects of the reporting processes in each HEI will be examined below which either demonstrate a survivor-centred and trauma-informed approach, or indeed a lack of such an approach.

Chapter Overview

Chapter 1 provides the legal and statistical context of GBV. By providing prevalence statistics within the criminal justice system, as well as in surveys taken in HEIs over the last two decades, a clear picture of the scale of the issue of GBV is outlined. Next, it is identified how universities ought to respond based on their legal duties, as well as providing an overview of the guidance given to the sector from Zelic in the 1990s, to contemporary strategies such as *Equally Safe in Higher Education*. From this, it is highlighted that data specific to Scotland is limited, and that the sector would benefit from unique analysis, separate from UK-wide surveys and guidance.

Chapter 2 comprises of the primary data collected from observations of the reporting mechanisms of Scottish HEIs. This establishes what is provided to students at each institution when they seek to make an online report of GBV to their university.⁸ Three broad categories have been identified within this – institutions which have outsourced their online reporting mechanism to the Report + Support tool; institutions which use a different but similar integrated online report gathering tool, and the remaining institutions that have no online tool through which students may lodge a report of GBV. Where there are unique elements within each category, these have been highlighted and assessed for how they may improve or negatively impact the student experience of reporting GBV. It is argued that on balance, the uniformity and comprehensive options provided by the Report + Support tool is the best suited to collect reports, however at the very least all HEIs should have an online tool that allows students to report GBV.

Chapter 3 will review issues around reporting GBV in a thematic manner, identifying the varying factors that influence a student's experience of a reporting process. These are loosely grouped into 'pull and 'push' factors; pull factors being those socio-cultural issues which would prevent or discourage a student from making a report, such as concerns that the event is

⁸ Or small, specialist institution, such as Scotland's Rural College (SRUC), the Royal Conservatoire, and the Glasgow School of Art.

‘not serious enough’, not trusting the reporting process, or not knowing how to make a formal report, while push factors are those procedural issues which would cause the student distress or lead them to abandon a report, such as not being taken seriously, having to re-disclose their experience to multiple individuals, or having a lack of information on how their report is progressing.

The former group (pull/socio-cultural issues) makes up the majority of this project’s analysis, owing to the comparative ease by which information on the steps *leading up* to a report can be gathered. While it has been possible to somewhat mimic the steps that a student would take to make a formal report, it was not possible in this research to analyse and evaluate the individual actions that each HEI take following the submission of a formal report, as these are often context dependent. Instead, the issues that arise following the submission of a formal report have been largely gathered from the literature, such as Munro and Cowan’s identification of a ‘criminal justice drift’ within HEI responses.⁹

Chapter 4 provides conclusions and suggestions from the analysis provided in this research. The key point made in this project is that consistency across Scottish HEIs is lacking, and as a result, not all students receive the same standard of support when they seek to make a report of GBV online. As such, the four points made in Chapter 4 seek to suggest how consistency could be achieved, through funding, the establishment of a minimum standard of good practice, the centralisation of procedures, the inclusion of students as key stakeholders in the process.

⁹ Sharon Cowan and Vanessa Munro, ‘Seeking campus justice: challenging the ‘criminal justice drift’ in United Kingdom HEI responses to student sexual violence and misconduct’ (2021) 48(3) JLS 308

Chapter 1: Gender-based Violence (GBV)

This chapter will examine definitions of GBV, both in how it is represented in academia as well as the criminal justice system. Prevalence of GBV in the criminal justice system will be outlined through prosecution statistics, however, it will also be noted that domestic abuse and sexual offences (which incorporate offences falling under the definition of GBV) are largely underreported, and therefore a picture of wider societal prevalence cannot be clearly shown.¹⁰ An overview of surveys which establish the prevalence of GBV in HEIs will then be provided, subject to the same caveat that statistics are not likely to show the full picture. It is noted that in the last decade or so, surveys have been mostly aimed at the UK as a whole, and as such Scottish-specific data is limited. Nonetheless, the Scottish Government's *Equally Safe* strategy provides some data, from which a toolkit for Scottish HEIs was made.¹¹ This chapter provides an overview of the definitions and issues most commonly referred to in the literature. It is vital to this research that GBV is understood as a gendered concept, most commonly perpetrated by men against women. Additionally, it is a key observation that the unique structure of HEIs – their hierarchical structure, quasi-pastoral provisions, and high concentration of young people – means that GBV is experienced in a unique way. This environment means that while some of the barriers to reporting GBV in the criminal justice system may be cited by students within HEIs, there are additional or different issues that students face when making a complaint to their university.

1.1 GBV in Academia

GBV in academia is increasingly capturing the attention of legislators, researchers, and activists on account of the widespread and harmful impact it has on those who experience it. The last 30 years have seen several attempts to standardise and improve United Kingdom (UK) university responses to complaints concerning GBV, with varying focus on staff-to-student GBV, staff-to-staff GBV, and student-to-student GBV.

¹⁰ Analysis of the development of domestic abuse laws in Scotland has found that specific actions were taken by the Scottish Government to address the 'under-reporting' of these offences. Michele Burman and Oona Brooks-Hay, 'Aligning policy and law? The creation of a domestic abuse offence incorporating coercive control' (2018) C CJ 18(1) 67 <https://doi.org/10.1177/1748895817752223>

¹¹ Donaldson and others (n4)

Each relational category of GBV is distinct, on account of the varying power dynamics, the involvement of employment law in staff-related instances, as well as the differing circumstances in which GBV arises. Responses to staff sexual misconduct have recently been guided by the comprehensive and ground-breaking research of the 1752 Group. However, this does not extend to student-to-student GBV. Staff-to-student issues bring with them distinct power dynamics and complex issues which have been researched elsewhere and are perhaps more consistently responded to on account of the use of employment and trade union law.

This research will focus on student-to-student GBV, considering the ways it occurs, its prevalence in UK HEIs, and the legal duties of HEIs flowing from human rights, equality protections, and consumer law. HEIs in Scotland are defined under Section 5 of the Further and Higher Education (Scotland) Act 2005 as those institutions which provide education past the level of school, usually degree level. This definition also includes bodies which provide training to teachers, courses of study prior to qualification into a professional body, and post-graduate study and research. The majority of HEIs in Scotland are universities, however, there are three Small Specialised Institutions (SSI) which provide degrees but are not universities, and thus HEI is a more inclusive term.¹²

There is no static academic or legal definition of GBV. Rather, the term covers a spectrum of harm that is understood to be linked to, or derived from, the social and political inequality of gender. As such, it disproportionately impacts women and is primarily carried out by men.¹³ Global definitions of GBV are often informed by the United Nations (UN) Declaration on the Elimination of Violence against Women.¹⁴ Article 1 of this resolution outlines that GBV is likely to result in:

‘Physical, sexual, or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life’.

¹² The three SSIs in Scotland are the Royal Conservatoire of Scotland, the Glasgow School of Art and Scotland’s Rural College (SRUC).

¹³ One in seven female students have experienced serious physical or sexual assault. See: Anni Donaldson and Melanie McCarry, ‘Rapid Review II – Scottish Higher Education Institution Responses to Gender-based Violence on Campus’ (2018) University of Strathclyde 6

¹⁴ UN General Assembly Resolution 48/104 1993

As this convention was ratified by the UK government, there is an obligation to protect the human rights included therein. However, it is worth noting that international law has no domestic effect beyond assisting the court with legal interpretation. Nonetheless, the experiences of GBV go beyond narrow written definitions, even those which are internationally negotiated and ratified. GBV experiences encompass harms such as online stalking and harassment, economic control and domestic violence, sexual harassment, assault, and murder.

It is vital to understand GBV as part of the wider system of oppression that exists; it is both the source and the product of global gender inequality and can impact individuals, groups, and societies. GBV is heavily connected to other inequalities, such as those relating to race, socioeconomic status, and sexuality, and thus it is vital to see GBV through an intersectional lens, maintaining an awareness of the nuanced power dynamics and privileges that can impact lived experience. Intersectionality is often described in layers – compound discrimination that can be tallied up and picked apart – however, seeing it as such implies that each layer can be removed and examined in isolation. For example, a woman’s experience of being black or gay is not separate from her experience of gender dynamics. In reality, intersectionality is irremovable, and while GBV can impact anyone, the way it impacts individuals is not uniform. Therefore, intersecting identities must be viewed together.¹⁵

Academic institutions are no exception to these nuanced dynamics, and their hierarchical nature may be a contributory factor as to why responses to complaints are difficult to construct. While GBV manifests in different ways when it exists between staff, students, or a combination, the structure of universities is often such that senior roles are dominated by older men, while students – especially undergraduates – are predominantly women.¹⁶ This creates an environment where the wider societal gender inequalities are mirrored and potentially exacerbated by especially unbalanced gender/power relationships in universities. Additionally,

¹⁵ For more on ‘The Need for a Feminist Intersectional Approach to Tackle Sexual and Gender-Related Violence Within HE Institutions’ see Barbara Biglia, *The Interdisciplinary Seminar of Feminist Research Methodology* at: <<https://unisafe-gbv.eu/events/ge-academy-unisafe-roundtable-on-addressing-gender-based-violence-and-sexual-harassment-in-academia-and-research-organisations/>>

¹⁶ 2020/21 statistics show 57 per cent of student enrolments were female, while 43 per cent were male. Higher Education Statistics Agency (HESA) ‘Who’s studying in HE?’ (2023) Available at: <<https://www.hesa.ac.uk/data-and-analysis/students/whos-in-he/>> Comparatively, data collected in the same period on the characteristics of academic staff show that there were 16,515 male professors, while there were 6,980 female professors. The gap was less stark for ‘other senior academics’, however male staff still constitute the majority in this category. See: <<https://www.hesa.ac.uk/data-and-analysis/staff/working-in-he/characteristics>>

GBV in an academic context may be expressed in ways not seen elsewhere in society, such as career or research sabotage.¹⁷ Specifically in the context of student-to-student GBV, ‘lad-culture’ may contribute to an environment in which sexual harassment and violence are accepted;¹⁸ Phipps suggests that sexual violence in universities arises from ‘spontaneous boundary crossings’ that are the result of patriarchal structures.¹⁹

Lad culture, like gender-based violence itself, does not have a settled definition. Instead, it is an umbrella term that encompasses a range of behaviours. The National Union of Student (NUS) articulated what is commonly understood to be lad culture in the UK as

*‘a ‘group or pack mentality residing in activities such as sport and heavy alcohol consumption and ‘banter’ which was sexist, misogynist, or homophobic’.*²⁰

In recent studies on sexual aggression in UK male university students, misogynistic views (that are fundamental to lad culture) correlated to a ‘proclivity for sexual violence against women’.²¹ While it is not straightforward to point to a direct link between lad culture and GBV in Scottish HEIs, Phipps understands the connection as an element of the casualisation of certain patterns of behaviour which constitute GBV. In later sections, this concept of casualised violence is reflected in student perceptions that often incident(s) are ‘not serious enough’ to report to their institution.²²

The focus of this research is on Scottish universities – those higher education institutions in Scotland with degree awarding powers²³ – and therefore it is useful to explain how GBV is defined in this context. In Scotland, definitions of GBV in academia are usefully defined by

¹⁷ Marijke Naezer and others, *‘Harassment in Dutch academia Exploring manifestations, facilitating factors, effects and solutions’* (2019)

¹⁸ UniSAFE Survey (2022) Available at: <https://unisafe-gbv.eu/faq/>

¹⁹ National Union of Students (NUS), ‘That’s what she said: women students’ experiences of ‘lad culture’ in higher education’ (2012). For more on ‘lad culture’, see: Alison Phipps *‘Lad culture’ and sexual violence against students* in Nancy Lombard (ed), *The Routledge Handbook of Gender and Violence* (Routledge 2018)

²⁰ NUS (n19)

²¹ Samuel T. Hales and Theresa A Gannon, *‘Understanding Sexual Aggression in UK Male University Students: An Empirical Assessment of Prevalence and Psychological Risk Factors’* (2022) SA 34(6) 744 <https://doi.org/10.1177/10790632211051682>

²² See, for example, Chapter 1 Section 5 on surveys from HEIs in the UK, as well as Chapter 2 Section 2 on the formal reporting procedures at Scotland’s HEIs which include an awareness that events are often seen as ‘not serious’ and therefore lead to incidents going unreported or reported anonymously.

²³ Scottish Government ‘Policies: Universities’ Available at: <https://www.gov.scot/policies/universities/>

Equally Safe, which is the Scottish Government’s initiative for preventing and ending GBV – referred to as violence against women and girls (VAWG).

The Equally Safe in Higher Education project uses a similarly broad definition of GBV, noting that it can take multiple forms and impact young people and adults in a number of settings.²⁴ This can include a range of behaviours, including sexual harassment, domestic abuse, stalking, and other forms of physical, sexual, or psychological violence. The initiative also notes that gender-based violence can be perpetrated by people of any gender and can occur in any relationship, including relationships between students, staff, and faculty members. The Scottish policy approach to VAWG recognises GBV as a part of a wider, structural inequality that ‘prevents women and girls thriving as equal citizens.’²⁵ As with many other analyses of GBV, the Scottish Government therefore understands GBV ‘*as both a cause and a consequence of gender inequality*’, and as such the findings and recommendations of the initiative are gendered and intersectional.²⁶

While women are not the exclusive subject of GBV, consistent statistical data shows that women are hugely overrepresented among those who experience GBV with men being overrepresented as perpetrators. Thus, this research will work on the understanding that victim/survivors are predominantly women.

1.2 GBV and the law in Scotland

1.2.1 Domestic Abuse

While many of the harms that fall under GBV are also criminal offences, there is no one act or legal definition that encompasses the entire framework of GBV. Despite this, it is useful to outline the legal structure to provide context for GBV in universities. It is further prudent to note that some of the behaviours that are being analysed here have no recourse to justice in the criminal law. For example, there is no stand-alone harassment offence in Scotland, however harassment is one of the most frequently reported experiences of GBV. This raises questions

²⁴ Donaldson and McCarray (n13)

²⁵ Melanie McCarray, Cassandra Jones and Anni Donaldson, ‘*The Significance of culture in the prevention of gender-based violence in universities*’ in Humphreys and Towl (n5)

²⁶ *Ibid* 5

of whether the law should do more to address harassment; a brief discussion of this legal “gap” will be made below.

As the scope of this project is limited to Scottish universities, two Acts of the Scottish Parliament will be primarily referenced: the Domestic Abuse (Scotland) Act 2018 and the Sexual Offences (Scotland) Act 2009.

The Scottish criminal justice system has undergone several changes over the last 10 years, many of which have been influenced by feminist activism.²⁷ The introduction of the Domestic Abuse (Scotland) Act 2018 is one such change, in that it recognised abuse as something broader than physical violence, incorporating emotional, psychological, and sexual abuse.²⁸ Moving away from understanding domestic abuse as involving discrete acts of physical violence is an approach which reflects the understanding of GBV in HEI as encompassing a broad range of harms, which is not only constituted by physical and some sexual offences.

By incorporating offences that cause mental distress as well as physical harm, the Domestic Abuse Act offers victim/survivors a path to justice for offences which have historically been difficult to prosecute. Despite this, there remains no standalone offence of harassment in Scotland. This has been a topic of debate and concern for some time, as it can make it more difficult to prosecute cases of harassment.²⁹ The main issue is that unlike in England and Wales, there is no clear definition of what constitutes harassment under Scots law, as it is not an offence in its own right. Under Scots law, harassment can be prosecuted as a breach of the peace, which is a common law offence. This offence involves conduct that causes fear and alarm to the public, or that disturbs the public peace.³⁰ In addition, Section 38 of the Criminal Justice and Licensing (Scotland) Act 2010 provides another option for prosecuting harassment. Section 38 creates an offence of stalking, which involves engaging in a course of conduct that

²⁷ Rachel McPherson, ‘Legal change and legal inertia: understanding and contextualising Scottish cases in which women kill their abusers’ (2021) 5(2) JGBV 289

²⁸ The definition of the offence of domestic abuse includes reference to physical and psychological harm. s1 Domestic Abuse (Scotland) Act 2018

²⁹ Scottish Parliament, ‘Protection from Harassment Act 1997: A review of its operation’ (2020) Available at <<https://sp-bpr-en-prod-cdnep.azureedge.net/published/2020/9/9/Protection-from-Harassment-Act-1997--A-review-of-its-operation/SPICL-2019-12.pdf>>

³⁰ *Smith v Donnelly* 2001 SCCR 800

causes another person to suffer from fear or alarm. Stalking can involve a range of behaviours, including following someone, making unwanted contact, and making threats.

The lack of a specific offence of harassment in Scotland can also make it more difficult for individuals to understand their legal rights and seek redress when they are being subjected to persistent and unwanted behaviour that causes them distress or alarm. Moreover, the prosecution of harassment under the different offences mentioned above can complicate the criminal justice process for those wishing to make a report, in turn creating further barriers to justice and reducing perpetrator accountability.³¹

1.2.2 Rape and Other Sexual Offences

Before the introduction of the Domestic Abuse (Scotland) Act in 2018, the law of rape and other sexual offences in Scotland was majorly reformed in the Sexual Offences (Scotland) Act 2009 following a Scottish Law Commission review of the previous legal framework. The review was prompted by the *Lord Advocate's Reference (No 1 of 2001)*³² in which it was held that rape necessarily involved a man having sex with a woman without her consent. This gendered approach was in part responsible for raising 'public, professional and academic' concern,³³ and generated a drive for a more inclusive and victim/survivor-centred approach.

The resulting 2009 Act saw many changes including a widening of the definition of rape to include non-consensual oral and anal penetration³⁴ (meaning men can also be victims), and a further definition of sexual harm that extended to non-consensual penetration of the body by an object other than a penis.³⁵ It is important to note this development, as it marks the changing criminal landscape in Scotland which could reflect an increasing public awareness of the varying ways GBV can be displayed.

³¹ Scottish Women's Rights Centre, 'Stand Alone Offence of Harassment' (2021) Available at: <<https://www.scottishwomensrightscentre.org.uk/information-hub/legal-faqs/stand-alone-offence-of-harassment/>>

³² 2002 SLT 466

³³ Scottish Law Commission, 'Discussion Paper on Rape and Other Sexual Offences' (2006) 1 Available at: <https://www.scotlawcom.gov.uk/files/3012/7892/7070/dp131_rape.pdf>

³⁴ s1 Sexual Offences (Scotland) Act 2009

³⁵ s2 Sexual Offences (Scotland) Act 2009

1.3 The extent of GBV in Scotland

Measuring the extent of GBV in Scotland is difficult due to low reporting rates and lack of data specific to Scottish HEIs, however by examining prosecution statistics of the previously mentioned acts, an outline can be given. As these acts have incorporated a considerable number of harms common to wider definitions of GBV, they can be used to create a picture of prevalence in the criminal justice system that can be viewed alongside prevalence in universities.

In 2021-22 there were 64,807 incidents of domestic abuse recorded by the police in Scotland.³⁶ In the most recent statistics, over four out of five domestic abuse incidents had a female victim and a male suspected perpetrator (81 per cent). This demonstrates that women experience domestic abuse disproportionately, as the most recent estimates showed that only 51 per cent of Scotland's population demographic is female.³⁷

Incidence of reported sexual crimes (including but not limited to those in the Sexual Offences (Scotland) Act 2009) is also high, with 15,049 incidents recorded in Scotland in 2021-22.³⁸ This is a 15 per cent increase from 2020-21. It is worth noting that this disparity may be impacted by COVID restrictions, as the number of sexual crimes fell in this period, but this drop in numbers is an anomaly in the long-term trend. Indeed, over the last decade, the number of sexual crimes recorded has increased by 96 per cent,³⁹ however it should be noted that the implementation of the Sexual Offences (Scotland) Act 2009 broadened the scope of crimes that are recorded in this category.

Despite sexual crimes making up 5 per cent of all recorded crimes in Scotland in 2021-22, evidence has shown that the number of people who have experienced sexual crimes is much higher than the recorded numbers. For example, in the Scottish Crime and Justice Survey

³⁶ Scottish Government, 'Domestic Abuse: Statistics Recorded by the Police in Scotland - 2021/22' (Scottish Government, 30 November 2021) Available at: <<https://www.gov.scot/publications/domestic-abuse-recorded-police-scotland-2021-22/>>

³⁷ Scotland's Census, 'Scotland's Census 2022 – Equality Impact Assessment Results' (2022) Available at: <<https://www.scotlandscensus.gov.uk/documents/equality-impact-assessment-results/>>

³⁸ Scottish Government, 'Recorded Crime in Scotland, 2021-2022' (2022) Available at: <<https://www.gov.scot/publications/recorded-crime-scotland-2021-2022/pages/6/>>

³⁹ *Ibid*

2018/20, only 22 per cent of victim/survivors of rape informed the police, and 12 per cent of victim/survivors of other types of sexual violence reported the incident.⁴⁰ This suggests that the number of incidents of GBV – represented in the criminal justice system as sexual crimes and domestic violence – is much higher than reported, however, we have no way of assessing the true number.⁴¹

As established above, an intersectional understanding of GBV is vital when looking at prevalence statistics. However, data on the characteristics of the suspected perpetrator and victim/survivor is not available alongside reporting statistics. Within the wider UK, The Office for National Statistics (ONS) 2019 reported that while adult men with disabilities experienced similar rates of sexual assault compared with adult men with no disabilities, disabled women were almost two times more likely to experience sexual assault compared with non-disabled women.⁴² Research on how GBV impacts women in *Scotland* who have multiple protected characteristics – black and ethnic minority women, women with disabilities, LGBTQ+ women – is comparatively limited, perhaps due to the size of the jurisdiction. However, in 2015 a collaborative survey undertaken in Glasgow found that 73% of respondents had experienced domestic abuse, and all participating disabled women had experienced some form of sexual violence or abuse.⁴³ There is an ever-growing awareness that some groups of women are more vulnerable to violence and that these groups are most often marginalised or ‘hidden’ from mainstream studies and policies.⁴⁴ This again underlines the importance of an intersectional understanding of how GBV is experienced.

1.4 Prosecution Statistics

While the number of recorded incidents of sexual offences is generally increasing, conviction rates remain low. The number of people convicted for sexual assault decreased by 52 per cent

⁴⁰ Scottish Government, ‘Scottish Crime and Justice Survey 2019/20: Main Findings’ (2021) Available at: <<https://www.gov.scot/publications/scottish-crime-justice-survey-2019-20-main-findings/pages/4/>>

⁴¹ Analysis of the development of domestic abuse laws in Scotland has found that specific actions were taken by the Scottish Government to address the ‘under-reporting’ of these offences. Burman and Brooks-Hay (n9)

⁴² Office for National Statistics ‘Disability and Crime, UK: 2019’ (2019) Available at: <<https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/disability/bulletins/disabilityandcrimeuk/2019#sexual-assault>>

⁴³ Wise Women, ‘Daisie Project: violence against disabled women survey’ (2015) Available at: <<http://www.wisewomen.org.uk/assets/daisie-report-pdf.pdf>>

⁴⁴ Zero-Tolerance, ‘Violence Unseen: re-imagined’ (2022) Available at: <<https://www.zerotolerance.org.uk/violence-unseen/>>

between 2019-20 and 2020-21,⁴⁵ however this should be considered in conjunction with the COVID restrictions in Scotland.

On the other hand, crimes under the Domestic Abuse (Scotland) Act 2018 saw an *increase* in convictions. During the period of 2020-21, there were 383 convictions, making the conviction rate 84 per cent for this period.⁴⁶ It is prudent to note that government restrictions during the COVID-19 pandemic are likely to have impacted domestic abuse. A report for The Scottish Sentencing Council noted that this included:

*‘Enhancing proximity between abusers and victims; increasing isolation from support structures; and posing challenges for reporting and policing throughout the UK’.*⁴⁷

Attrition is a significant issue for complaints of GBV, both in the criminal justice system and in universities. The figures above show that there is a significant gap between reported offences and convictions. This is true for HEIs too; multiple surveys over the last two decades have shown that students report far less GBV than is experienced.

1.5 The extent of GBV in universities

Universities are, in many ways, a microcosm of society, and as such are subject to many of the same issues – low reporting compared with survey responses on the experience of GBV and low satisfaction regarding outcomes. However, the age and stage of the majority of students,⁴⁸ and the unique mix of education and social interaction often mean that there is not a straightforward mirroring of statistics. Distressingly, universities are increasingly viewed as ‘hot spots’ for GBV, even being described as “petri dishes where cultures that normalise and encourage sexual aggression proliferate”.⁴⁹

⁴⁵ Scottish Government, ‘Criminal Proceedings in Scotland: 2020-21’ (2021) Available at: <https://www.gov.scot/publications/criminal-proceedings-scotland-2020-21/>

⁴⁶ *Ibid*

⁴⁷ McPherson and others ‘The sentencing of offences involving domestic abuse in Scotland’ (2022) Available at: <<https://www.scottishsentencingcouncil.org.uk/media/2231/20220624-domestic-abuse-final-report-as-published.pdf>>

⁴⁸ First year students aged under 20 continues to be the largest of those in higher education. HESA ‘Higher Education Student Statistics: UK, 2020/21 – Student numbers and characteristics’ (2022) Available at: <<https://www.hesa.ac.uk/news/25-01-2022/sb262-higher-education-student-statistics/numbers>>

⁴⁹ Samuel T. Hales, ‘*Sexual Violence in Higher Education*’ in Humphreys and Towl (n5)

Despite increased awareness of GBV in universities, the amount of tangible data on the number of students in Scottish universities who have experienced GBV is relatively low.⁵⁰ The first major study into GBV across UK universities was undertaken by the National Union of Students (NUS) in 2011, however, only 5 per cent of respondents were studying in Scotland.⁵¹ This low rate of Scotland-specific engagement in studies is seen throughout the last 10 years of data collection, and thus statistics on the prevalence of student-to-student GBV will be analysed from universities in the whole of the UK, including a brief look at a recent Europe-wide survey. Together, these surveys will provide the context in which university responses are viewed.

2011

The findings of the aforementioned 2011 NUS study were that GBV was widespread across UK universities; one in seven respondents reported having experienced serious physical or sexual assault, while more than two-thirds had experienced harassment in or around their institution. This included groping, flashing, and unwanted sexual comments.⁵² The impact of this was wide-reaching, with reports of suffering attendance, negative effects on relationships and physical health, and most commonly a deterioration of mental health.

2014/15

NUS followed up in 2014 with another survey that found 37 per cent of female students and 17 per cent of male students had experienced unwelcome sexual advances at university; 62 per

⁵⁰ It should be noted that the language used to describe those who experience GBV and those who perform these harms differs between the criminal justice system and recent literature focused on higher education institutions (HEIs). While crime statistics refer to the victim and alleged perpetrator, this paper will also refer to the victim/survivor or reporting party, and the responding party. This is to acknowledge that those who have experienced GBV may prefer to emphasise their response to the event in the use of the word “survivor”, while some may prefer the term “victim”. Particularly in non-legal environments, use of the term “survivor” is increasingly common, as it aims to focus on the positive responses available, and moves away from focussing on the event itself.

⁵¹ NUS, ‘Hidden Marks: A Study of Women Students’ Experiences of Harassment, Stalking, Violence and Sexual Assault’ (2011) Available at: <<https://itstopsnow.org/sites/default/files/2018-02/Hidden%20Marks-A%20study%20of%20women%20students%27%20experiences%20of%20harassment%2C%20stalking%2C%20violence%20%26%20sexual%20assault%20%28NUS%29.pdf>>

⁵² *Ibid* 3

cent of all students surveyed reported hearing jokes about rape or sexual assault at their institution. In another NUS poll in 2015, 17 per cent of respondents had experienced sexual harassment within the first *week* of term, and 29 per cent had witnessed sexual harassment towards someone else.⁵³

Much of the initial findings that prompted wider action on GBV in UK universities arose from student-led surveys, with considerable efforts from the NUS. The importance of including student activists in the formulation of university responses to GBV cannot be understated; this is explored later in this research when looking at student-led collaboration for change.

2018

In 2018, the Student Room and Revolt Sexual Assault conducted a national consultation on students who had experienced or witnessed GBV (specifically sexual assault and harassment) in universities across the UK. This echoes previous results, with 62 per cent of all respondents experiencing some form of sexual violence – 50 per cent experiencing sexual harassment and 42 per cent experiencing sexual assault.⁵⁴ Again the figures were considerably higher for female-identifying and non-binary respondents, compared with male-identifying students and graduates. Analysis of reporting showed low figures again – only 6 per cent of those who responded that they had experienced assault or harassment reported this to the university. The main reasons respondents gave for not reporting were not thinking the event was ‘serious enough’, shame, and lack of knowledge on how to make a report.

2019

In 2019, an online survey was sent to students across the UK which returned 5,649 responses in 8 days. While no geographical breakdown of respondents was given, the research found that over half of respondents had experienced unwanted sexual behaviours, but only 8 per cent had

⁵³ Universities UK, ‘Changing the Culture: Report on the Universities UK Taskforce Examining Violence against Women, Harassment and Hate Crime Affecting University Students’ (2016) Available at: <<https://www.universitiesuk.ac.uk/sites/default/files/field/downloads/2021-07/changing-the-culture.pdf>>

⁵⁴ Revolt Sexual Assault, ‘National Consultation into the Sexual Assault and Harassment Experienced and Witnessed by Student and Graduates from Universities across the UK’ (2018), Available at <<https://revoltsexualassault.com/wp-content/uploads/2018/03/Report-Sexual-Violence-at-University-Revolt-Sexual-Assault-The-Student-Room-March-2018.pdf>>

reported the incident.⁵⁵ The most reported incident was forced penetrative sex, and the least reported were wolf-whistling, being exposed to a sexual conversation, and being pressured into a sexual act. The statistics on reporting reveal that many students who experience gender-based violence (GBV) are reluctant to report it, often due to perceptions that the event is not serious enough. Although cases involving sexual assault or rape are more likely to be reported, the data shows that even in these cases, only 25 per cent of incidents were reported to the HEI. It is worth noting that for the least reported incidents, s.7 of the Sexual Offences (Scotland) Act 2009 would cover being exposed to a sexual conversation and being pressured into a sexual act could potentially fall under s.4 of the Act that deals with sexual coercion. Therefore, even the offences that are deemed to be ‘less serious’ by students in these surveys could be criminal offences.

This 2019 survey also contained similarities between university GBV and criminal sexual offences regarding relationship statistics. In the student cases reported to this survey, up to 90 per cent of victim/survivors knew the alleged perpetrator. Very similarly, outcomes from the Rape Crisis Scotland National Advocacy Project showed that more than 90 per cent of rape and sexual assault victims know the perpetrator.⁵⁶

2022

In a systematic review of ‘Sexual Harassment in Higher Education’, it was stated that there is no evidence to show that experiences of sexual harassment are decreasing amongst university students.⁵⁷ This rather bleak suggestion is supported by recent data from the EU-funded UniSAFE survey – constructed across 46 universities and research-performing organisations (RPOs) in 15 countries in Europe, including three universities from the UK.⁵⁸ The initial findings of the survey, released in November 2022, painted a similar picture to the NUS polls undertaken over the last 10 years: the prevalence of GBV in the student population of

⁵⁵ Brook, ‘Sexual Violence and Harassment at UK Universities’ (2019) Available at <http://legacy.brook.org.uk/data/Brook_DigIN_summary_report2.pdf>

⁵⁶ Oona Brooks-Hay and others, ‘Evaluation of the Rape Crisis Scotland National Advocacy Project: Final Report.’ (2018) SCCJR Project Report, Available at: <<https://www.sccjr.ac.uk/publications/evaluation-of-the-rape-crisis-scotland-national-advocacy-project-final-report-2018/>>

⁵⁷ Fredrik Bondestam and Maja Lundqvist, ‘Sexual harassment in higher education – a systematic review’ (2020) *EJHE* 10(4) 397 <<https://doi.org/10.1080/21568235.2020.1729833>>

⁵⁸ It must be noted, however, that all three of these universities are in England.

participants was 58 per cent.⁵⁹ The consequences of this once again mirrored the sentiments of previous surveys, including missed classes, considerations of dropping out, and negative mental health impacts including isolation and disengagement.

The 2022 UniSAFE survey expressly acknowledged that GBV is an intersectional issue, and their results highlight this – respondents of the survey who experienced multiple discrimination answered with more numerous experiences of GBV. This included individuals who were from minority groups based on ethnicity, disability, sexuality, and gender identity. Further research from the US has supported this conclusion, showing that the likelihood of being a victim/survivor of GBV drastically increases for members of the LGBTQ+ community, students with disabilities, and students from minority ethnic backgrounds.⁶⁰ Once again the experiences of the criminal justice system and the characteristics of victim/survivors who report experiencing sexual violence or harassment are comparable: both campus and non-campus-based GBV impacts marginalised groups at a higher level.

By looking at the statistics of GBV in universities and noting some of the issues in common with the criminal justice system, it can be seen that there are indeed marked similarities – when surveyed, both communities had high instances of GBV but comparatively low reporting figures; statistical data from both communities showed that marginalised groups experience increased levels of GBV; and the impact for those who experience GBV both on campus and in the wider community are life changing and life lasting. Therefore, GBV in HEIs should be tackled with as much consideration and urgency as GBV seen in the criminal justice system.

1.6 The role of universities in tackling GBV

1.6.1 Legal duties of universities

Several legal duties require universities to work on preventing GBV. These legal duties must be considered in any institutional response and inform policies and procedures. GBV impedes a student's right to be free from gender-based discrimination as outlined in Article 14 of the

⁵⁹ A Lipinsky, C Schredl and H Baumann, and others, 'Gender-based violence and its consequences in European Academia: Summary results from the UniSAFE survey' UniSAFE (2022)

⁶⁰ Robert W S Coulter and others, 'Prevalence of Past-Year Sexual Assault Victimization Among Undergraduate Students: Exploring Differences by and Intersections of Gender Identity, Sexual Identity, and Race/Ethnicity' (2017) PS 18(6)

European Convention on Human Rights (ECHR), which is incorporated into the Human Rights Act 1998. The ECHR, along with the UN Convention on the Elimination of Discrimination Against Women and others, forms part of an international body of law that universities must follow.

Domestically, universities have duties as public bodies under Part 1 of Schedule 19 of the Equality Act 2010 to eliminate discrimination and harassment (Section 149) and promote the equality of those with protected characteristics, including gender. These Public Sector Equality Duties (PSED) laid out in the legislation also press upon universities the need to foster good relations between persons, which includes tackling prejudice. Moreover, statistics have consistently shown that GBV disproportionately impacts women-identifying students and so universities must have a robust response to GBV that actively tries to eradicate it and support students through their experiences. While the Equality Act 2010 does not specify the substantive steps universities need to take to fulfil their duties, it has often been interpreted as an obligation to provide a clear response to GBV⁶¹ – failure to do so may put universities at risk of breaching their duty of care or allowing unconstitutional discrimination.⁶² Examples of a robust response may include providing training for staff and students, implementing clear reporting procedures, and offering support services to those affected by GBV that are well-sign-posted and readily available. Further, in return for HEIs receiving funding from the SFC, they must provide data when prompted, including their PSED Equally Outcomes that include how they protect and improve student welfare.⁶³

Judicial review proceedings enforce the procedural duties flowing from the Equality Act 2010 and the Human Rights Act 1998, which are regulated by the EHRC itself. While the ECHR may begin proceedings or give expert evidence, the Women and Equalities Committee's (2019) Report concluded that these powers are rarely used. Indeed, where the ECHR has stepped in, the outcomes have not been made publicly available. Unfortunately, the Committee felt that

⁶¹ Louise Whitfield and Holly Dustin, 'Spotted: Obligations to Protect Women Students' Safety and Equality' End Violence Against Women Coalition (2015) Available at:

<<https://www.endviolenceagainstwomen.org.uk/wp-content/uploads/Spotted-Obligations-to-Protect-Women-StudentsEy-Safety-Equality.pdf>>

⁶² Alice de Coverley, 'Campus Rape: Breach of Care' (*Counsel Magazine* 2019) Available at

<<https://www.counselmagazine.co.uk/articles/campus-rape-breach-of-care>>

⁶³ Scottish Funding Council, Available at: <<https://www.sfc.ac.uk/publications-statistics/statistics/statistics-universities/university-data-collections/university-data-collections.aspx>>

this is a weakness and discourages meaningful change in the sector as institutions can act how they wish with a low likelihood of intervention from the regulatory body.⁶⁴

1.6.2 University students as consumers

As well as PSED under the Equality Act, students' status as consumers creates unique duties to prevent and tackle GBV. As most students pay fees – personally or through loans – their status as consumers is uncontroversial. Indeed, The Competition and Markets Authority even have a paper on the government website titled, “Undergraduate students: your rights under consumer law”, which outlines what students can expect from the university complaints procedure and where this information should be found.⁶⁵

These duties are outlined in the Consumer Rights Act 2015, which sets out the protections that consumers (including university students) are entitled to in their interactions with businesses and organisations (including universities). Under the Act, universities have a duty to provide services to their students with reasonable care and skill. This duty applies to all aspects of the university's services, including those related to preventing and responding to GBV. Universities must ensure that their students are safe and protected from harm and have access to appropriate support and resources if they experience GBV. They must also ensure that their policies and procedures related to GBV are accessible and easy to understand for all students.

If a university fails to fulfil its duties under consumer law related to GBV, students may have the right to make a complaint and seek redress. This could include seeking compensation for any harm they have suffered as a result of the university's failure to provide adequate support or respond appropriately to reports of GBV.

1.6.3 Enforcing a duty of care

In summary, several laws guide the actions of universities towards their students, provide an obligation to take sufficient care in the provision of their services and set out clear guidelines on how this will be done. As discussed, the Equality Act 2010 and Human Rights Act 1998

⁶⁴ Rachel Fenton and Janet Keliher, *The Legal Framework*, in ‘Humphreys and Towl (n5)

⁶⁵ Available at:

<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/415732/Undergraduate_students_-_your_rights_under_consumer_law.pdf>

create a legal duty to ensure the safety and well-being of students by implementing measures to prevent instances of abuse and addressing acts of violence specifically targeting female students. Further, consumer law creates an obligation to take care in the provision of university services. These duties have been affirmed by Universities UK (UUK), and it has been emphasized that universities should maintain this standard of care when students are not physically on campus, but also when they are studying internationally or on a work placement. However, there has been some debate about whether these duties go far enough to protect students.

While enshrined in UK law, these duties are rarely enforced, and universities don't often face penalties for failing to comply with their legal duties. As mentioned above, the ECHR has wide-reaching powers regarding the Human Rights Act 1998 and the Equalities Act 2010 but has rarely intervened, and the lack of a national regulatory body means that the piecemeal laws that make up an overarching 'duty of care' can be overlooked without consequences. The Women and Equalities' Parliamentary Committee made recommendations to the UK Government that included the establishment of financial sanctions for universities that were not sufficiently working to tackle GBV, similar to the Title IX legislation in the USA⁶⁶ – unfortunately, the government did not adopt this suggestion. While the merits of a national legislative approach (like the USA) to tackling GBV will not be assessed in this research, the failure to accept the recommendation highlights the gap in the current regulatory framework and the need for more robust measures to ensure that universities are held accountable for tackling GBV.

1.7 How should universities tackle GBV – the guidance so far

1.7.1 The Zellick Guidelines

The guidance for universities responding to complaints of GBV has changed over the last thirty years, most notably with a departure from the 'Zellick' guidelines published in 1994. The Zellick Report was a response to a high-profile case in which a student was suspended from

⁶⁶ Title IX legislation requires federally funded universities to ensure students are not discriminated against on the basis of sex, oft interpreted as including freedom from GBV which impacts women disproportionately. For more, see Marie T Reilly, 'Due Process in Public University Cases' (2016) PSLR 120 1001

university following an accusation of rape but was later found not guilty. This case highlighted confusion around how universities should respond to sexual harassment and violence, and the Zellick report aimed to provide clear advice to prevent legal challenges and loss of reputation for universities. In summary, the guidelines stipulated that universities may address student misconduct that could amount to a criminal offence at a lower threshold, but should refrain from investigating more severe offences, such as sexual assault. Instead, universities were advised to pause disciplinary proceedings until the police were notified and an investigation concluded.⁶⁷ Although the aim was to protect institutions from legal action, this approach meant that for many years after, very few institutions took action to address sexual violence on campus. The Zellick Report has been criticised for prioritising universities' reputation over student well-being, leading to student-led campaigns to reject the guidelines altogether.⁶⁸

One of the specific concerns raised by students was that the average length of criminal proceedings was over a year 'from report to verdict', which is a large proportion of the full length of an undergraduate degree. If students are to rely on lengthy court times, they may have graduated by the time a verdict is given.⁶⁹ This was especially concerning as statistics show the majority of those who experience GBV know the perpetrator, so in a university setting this may mean a victim/survivor has to continue attending classes or even living in the same place as their alleged abuser.⁷⁰

1.7.2 Changing the Culture Report – Universities UK

With the growth of student discontent around the Zellick Guidelines, and increased polling by NUS to challenge the report, UUK established a task force to examine how universities were and should be responding to the issues raised. The taskforce also looked into additional measures that HEIs could implement to prevent and address incidents of violence, sexual harassment against women, hate crimes, and other forms of harassment. In 2016, UUK published its ultimate report titled *Changing the Culture*, which presented recommendations derived from the taskforce's findings. At this time, it was acknowledged that data on GBV in

⁶⁷ Final Report of the Task Force on Student Disciplinary Procedures (The 'Zellick' Report) Council of Vice-Chancellors and Principals (CVCP) [*Now Universities UK*] (1994) para 12

⁶⁸ NUS, 'How to Respond to Complaints of Sexual Violence: The Zellick Report' (2015) Available at: <<https://universityappg.co.uk/sites/default/files/field/attachment/NUS%20Zellick%20report%20briefing.pdf>>

⁶⁹ *Ibid* 3

⁷⁰ *Ibid* 4

universities was limited to NUS poll results. Nonetheless, this publication was a major collaboration to tackle GBV in higher education – 60 UK universities were involved in providing evidence of their activity to tackle GBV, however, only 4 of these were Scottish.⁷¹

The *Changing the Culture* report departed from the Zellick guidelines by recommending that behaviour constituting a crime could be subject to university disciplinary procedures. This prompted media attention and raised awareness of the inconsistencies in UK universities' responses to sexual harassment and violence.⁷² While many welcomed the expanded scope of disciplinary procedures, subsequent analysis has raised concerns that this approach may undermine the presumption of innocence for the alleged perpetrator.⁷³ This is especially worrying when universities conduct internal proceedings before or during a criminal investigation, and indeed risk running into double jeopardy. However, it should be noted that the UUK guidance, developed in collaboration with Pinsent Masons after the *Changing the Culture* report, emphasised the complexity of disciplinary procedures and highlighted the primacy of criminal investigations, stressing that any internal process must be suspended during a criminal investigation.⁷⁴

While the updated guidance maintained the previous recommendation that universities should not initiate disciplinary procedures if a student has already reported the incident to the police, it also provided additional suggestions. Importantly, this included providing the option to pursue an internal investigation within the institution when the student did not want to involve the police. In recognition of the difficulty that may face students waiting on a verdict, the UUK/Pinsent Masons guidance suggested that it would be permissible for universities to issue precautionary measures while a police investigation was ongoing if a relevant risk assessment deemed it necessary. This allows universities to alleviate some of the stress that comes with the reporting party being on the same campus as the alleged perpetrator.

⁷¹ Universities UK (n53)

⁷² Karen McVeigh, and Elena Cresci, 'Student sexual violence: leaving each university to deal with it isn't working' *The Guardian* (2015) Available at <<https://www.theguardian.com/education/2015/jul/26/student-rape-sexual-violence-universities-guidelines-nus>>

⁷³ Elaine EO Freer and Andrew D Johnson 'Overcrowding under the disciplinary umbrella: Challenges of investigating and punishing sexual misconduct cases in universities' (2018) IJLC 14(1)

⁷⁴ Universities UK, 'Guidance for Higher Education Institutions: How to Handle Alleged Student Misconduct Which May Also Constitute a Criminal Offence' (2016) Available at: <<https://www.universitiesuk.ac.uk/sites/default/files/field/downloads/2021-07/guidance-for-higher-education-institutions.pdf>>

1.7.3 Scottish guidance

As education is a devolved matter in the UK, the management of HEIs in Scotland and how they are guided falls to the Scottish Government. Therefore, it is vital to understand the Scotland-specific guidelines provided to HEIs. Not only is education a devolved matter, but the Scottish jurisdiction has different laws as well as a different police force, so the broader societal context of GBV is different.

VAWG policy in Scotland centres around the *Equally Safe* strategy, which aims to prevent and eliminate violence against women and girls. First introduced in 2014 and updated in March 2016, this strategy outlines Scotland's approach to addressing GBV and includes a range of actions and recommendations for preventing and responding to such violence. Having addressed the definition of GBV in academia given by *Equally Safe* already this will not be revisited, however, it is worth noting that the national approach to tackling VAWG has been recognised as a progressive approach. This is not only because the issue is recognised as expressly gendered, but also because the strategy underlines the importance of cross-sector partnership and intersectional collaboration.

1.7.4 Equally Safe in Higher Education (ESHE) Toolkit

Through the *Equally Safe* strategy, the Scottish government awarded funding to the University of Strathclyde to develop a toolkit specifically tailored to university students in Scotland as part of an *Equally Safe* partnership project. This toolkit followed the *Equally Safe* approach, understanding GBV on campus as part of a wider social problem of male violence against women. The funding ran from 2016 to 2018 and following the publication of the research, a toolkit was created to support higher education institutions in their efforts to prevent and address GBV on their campuses. This resource became freely available to universities and addressed GBV responses, prevention, intervention, and the sharing of good practices.⁷⁵

In 2018, the Scottish Government Minister for Higher Education made it mandatory for Scottish universities to incorporate the ESHE Toolkit into their institutional practices and report their progress as part of the Outcome Agreements with the Scottish Funding Council.

⁷⁵ Donaldson and others (n4) 10

This collaborative approach was rolled out across Scotland provided a unique opportunity to tackle GBV in a joined-up and consistent manner, based on feminist understandings of the wider issue. In this way, the Scottish Government has gone further than its UK-wide counterparts in providing slightly more direct guidance that must be adhered to, rather than leaving the sector to follow the broader Equality duties. However, A 2021 study by the EmilyTest charity on Scottish campuses highlighted that while efforts to address GBV exist, they primarily focus on rape prevention, with little attention paid to the broader range of GBV harms and their responses. Therefore, there is still room for improvement within the guidance given to Scottish universities. Particularly, there seems to be an absence of guidance for universities on how to act when a complaint is made, resulting in piecemeal progress.

Further, while policies may appear comprehensive and sufficient to tackle GBV, there is often an ‘implementation gap’ or a difference in how these policies translate to lived experience. This includes difficulties when making a complaint about GBV, which will be discussed in the next section.

Chapter 2: Reporting GBV and Complaint Procedures

'You might feel like a lonely little ghost, right now. Your complaint might seem to have evaporated like steam, puff; puff. Your complaint can still be picked up or amplified by others. You might not be able to hear it now; it might not have happened yet. But those who come after can receive something from you because of what you tried to do, even though you did not get through, even though all you seemed to do was scratch the surface. There you are, little ghosts, little birds, "scratching away," at something, trying to create room from what has been scattered; shattered. It can just take a small opening, a tiny crack, for more to come out, no, no, no, no, an army of no's; we are that army. A complaint can open the door to those who came before.'

Sara Ahmed – *Feminist Kill Joys*

As with the criminal justice system, it is broadly accepted that the number of reports made of GBV at Universities in Scotland is much lower than the number of incidents that occur on campuses across the country. Indeed, when disclosures of GBV *are* made within a HEI, they are often reported informally rather than through the central complaints system. Reasons for this include mistrust in the process, worries about social repercussions, and perceptions that the behaviour is 'not serious enough' to report, as referenced in surveys included in Chapter 1.

2.1 What can students make complaints about? Complaints or Reports?

A note on language in this chapter; while the title references complaint procedures, analysis of the current mechanisms has shown that the majority of institutions describe the process as 'making a report'. While this report can lead to a 'formal complaint' (i.e., an instigation of an investigation into student misconduct and exploration of possible disciplinary actions), it is not necessary to lodge such action following a report. Instead, a report can simply involve disclosing information to the HEI in order to access support. Thus, the terms 'report', and 'complaint' seem to describe different points of the same process. Beginning with a report, which may develop into a complaint. Nonetheless, it is important to highlight that the majority of policies and written guidance at Scottish HEIs that govern these procedures are referred to using the language of complaint. While the etymology and use of the terms will not be evaluated here, it is worth highlighting as often the connotations of the two words are different; as Sara Ahmed discusses at great length, often 'when you expose a problem, you pose a problem.'⁷⁶ This is often the sentiment around making a complaint, and indeed it is shown in

⁷⁶ For more on the language of complaint, see the work of Sara Ahmed, including 'The Problem of Perception' Available at: <<https://feministkilljoys.com/2014/02/17/the-problem-of-perception>>

this research that universities are cognizant of this, acknowledging it as a reason why students may wish to stay anonymous.⁷⁷

Of the three HEIs that do not have an online reporting tool for GBV, two of the websites instead refer to the Model Complaints Handling Procedure (MCHP), developed by the Scottish Public Services Ombudsman (SPSO). This imposes a statutory duty upon HEIs to adopt the specified procedure by April 2021, as part of their obligations as a fundable body within the Further and Higher Education (Scotland) Act 2005.⁷⁸ While it may seem that this is a transparent and monitored conduit for student complaints, it is unclear that this is in fact the appropriate method for reporting GBV. More detail is provided on this below.

In the actual fulfilment of the reporting process, HEIs are often seen to have the same language, structures and even actors as the criminal justice system.⁷⁹ The more HEIs emulate the criminal justice system and create an adversarial environment, the less approachable the complaint procedure may seem to students, as this can blur the lines between HEI codes of conduct and criminal standards of behaviour. This trend towards a more legalistic system of complaints which emulates the criminal law has been described as ‘criminal justice drift’⁸⁰. It argues that mirroring the criminal system fails to acknowledge the unique opportunity HEIs have to address GBV differently, providing a trauma-informed response to reporting students and an informed opportunity for redress. Rather than clumsily redraw the litigious patterns of the criminal system, HEIs should seek to lead the change in how complaints of GBV are received and responded to.

Complaint procedures in Scottish HEIs – and the UK more widely – are not standardised, and outside of the wider duties on HEIs to provide avenues to report unacceptable behaviour, there are a wide variety of processes. There are a number of key differences across the sector that can change what students can report. The types of conduct that can be reported is usually

⁷⁷ As shown in the Report + Support pages of Scottish HEIs, which offer the choice of selecting the options titled: “I’m worried about being called a trouble maker”, and “I’m worried there would be negative consequences for me”. See section 2.2.1 below.

⁷⁸ Scottish Public Services Act 2002, sch 2, para 92

⁷⁹ For example, discussions of burdens of proof, evidence, sanctions and ‘parties’ are seen across HEI policies. It is also increasingly common for students to access legal representation in the course of a university disciplinary process, creating an adversarial mock-legal environment. More on this below.

⁸⁰ Cowan and Munro (n9)

predicated in the student conduct policy of the relevant HEI, however it is unlikely that students would refer to this document in the first instance after experiencing GBV. This is because consulting an online document or expecting students to navigate different policies and documents that may be located in different places across a HEI website before making a report is an onerous obligation to put on students who have experienced GBV. As detailed further below, feedback from the sector⁸¹ has shown that students are often more trusting of student union disciplinary processes, or more likely to make a disclosure elsewhere within the institution.⁸²

If students do wish to report GBV to the university, given the reasons listed, it is foreseeable that students may go straight to the online reporting mechanism available at their HEI, instead of seeking out the codes of conduct, in order to establish what conduct can be reported. Therefore, it is vital to understand what each of these tools contains, and how it operates.

Helpfully, the Scottish Women's Rights Centre lists the relevant pages for 18 of the 19 HEIs on their 'Support for University Students' webpage, missing only the Glasgow School of Art, despite GSA having an integrated Report + Support tool. It is not clear why this institution is missing from their list. More detail is given in later sections on the variation between each of the HEIs tools, with points of difference, and potential areas for improvement.

As it stands, there is no HEI in Scotland or the UK that will accept an anonymous complaint of GBV as grounds for disciplinary action, however the motivation for this is clear; it ensures that the individual named in the report is not subject to disciplinary procedures where the report cannot be verified. While disciplinary action cannot be directly taken from an unnamed report, in most cases students can still access support, and the HEI will use the data gathered to inform changes to policies and monitor behaviour across the institution.

⁸¹ Such as in the Ross Report. Morag Ross, 'The University of Glasgow's Approaches to Gender-Based Violence: Independent Investigation and Review Report' (2023) Available at: <https://www.gla.ac.uk/media/Media_903464_smxx.pdf>

⁸² See Section 2.3 for more.

2.2 How can students make a report?

Each of the HEIs in Scotland have their own processes, websites, and resources available to students seeking support. It is not within the scope of this project to discuss the differences between different ‘types’ of universities – ancient, charter, modern/post-92, or campus and non-campus – however it is known to be an area that would benefit from further research.⁸³ Instead, a cursory description of the online resources at each institution will be described, and it will be highlighted whether it is possible to make a report online, whether that report can be anonymous, and if (at all) any other mechanisms are provided by the HEI at this point, such as the opportunity to make a formal complaint.

While there is no unitary way in which HEIs provide reporting options or support to students, however over the last few years has seen many move towards using the model of a Report + Support tool or site on their webpage. It is these dedicated webpages that will be laid out here. In order to gather these results, a few key words were typed into a search engine, along with the HEI’s name. For example, ‘report’, ‘support’, ‘GBV’, ‘sexual harassment’. It was expected – and indeed, desired – that many HEIs would have some variation of the Report + Support terminology on their websites, with an option for anonymous and named reports. A table containing information on each of the HEIs resources and tools is included at the end of this section, in Figure 2.

Of the 19 HEIs, 10 use the same format for receiving reports of GBV from students; the aforementioned ‘Report + Support’ online tool created by Culture Shift, which followed the development of key principles by the Equality, Diversity, and Inclusion team at the University of Manchester in 2014. Report + Support is a dedicated platform integrated into the university website that allows for the anonymous reporting of GBV (among other things), as well as the sharing of a named report which provides the opportunity to begin a formal disciplinary process.⁸⁴ The tool has been in circulation since 2017, and is now widely used across the Scotland, and the UK.

⁸³ As highlighted in Melanie McCarry, Cassandra Jones and Anke Kossurok ‘Equally Safe on Campus: Research Report’ (2021) ESCU 55

⁸⁴ Culture Shift ‘How Culture Shift Is Improving Work Place Culture’ (2023) Available at: <<https://culture-shift.co.uk/about/>>

Of the remaining nine HEIs in Scotland that don't use the Report + Support tool, six have an alternative way to make a report online, usually through a similar format of an integrated webpage that has options to describe the incident(s), with information on definitions provided alongside. The remaining three HEIs use a different method to collect reports of GBV from students, either relying on wider public sector guidance on complaints, or providing individual contact details through which to raise an issue or concern.⁸⁵

2.2.1 Report + Support HEIs

In Scotland, the Report + Support tool was piloted in Aberdeen at Robert Gordon University (RGU) before being taken on by the University of Aberdeen, the University of Glasgow, and then a majority of HEIs in Scotland. The motivation behind RGU's introduction of the Report + Support tool was to provide students with a 'user-friendly way to gather data about GBV on campus'.⁸⁶ Since the scheme was established the website has developed to include guidance and information on 'what is sexual violence', 'what is sexual harassment', 'what is relationship abuse', and a series of other topics that may be useful to students making a formal complaint.⁸⁷

Edinburgh Napier University

The basic structure of the Report + Support tool in use at Scottish HEIs follows the same format. For the purposes of clarity, the layout will be discussed in reference to Edinburgh Napier University, and for all subsequent HEIs that use Report + Support, difference to this basic structure will be highlighted and where appropriate, evaluated for their efficacy.

When students navigate to the '*reportandsupport*' URL, the landing page is comprised of a preamble on what outcomes are available following each type of report, with the two central 'buttons' splitting the page into 'report anonymously', and 'report with contact details.'

⁸⁵ SRUC and the Royal Conservatoire instead using a more general 'complaints' form, with UHI providing contact details of individual campus staff members.

⁸⁶ Fiona Stalker, 'University launches support system to tackle gender-based violence' (*BBC News: NE, Orkney & Shetland* 2018) Available at: <https://www.bbc.co.uk/news/uk-scotland-north-east-orkney-shetland-45799915>

⁸⁷ Robert Gordon University, 'Report and Support' Available at: <https://reportandsupport.rgu.ac.uk/>

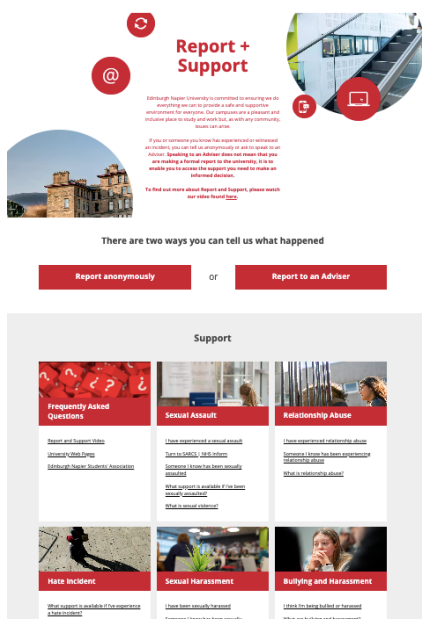


Figure 1-2. The Edinburgh Napier University Report + Support Page, showing the two main ways to make a report, as well as the preamble, and support pages below.

Importantly, vital information on what students can expect from each process is included in bold for emphasis, re-written below for clarity:

*“If you or someone you know has experienced or witnessed an incident, you can tell us anonymously or ask to speak to an Adviser. **Speaking to an Adviser does not mean that you are making a formal report to the university, it is to enable you to access the support you need to make an informed decision.**”⁸⁸*

In addition, Napier provide a video on how the Report + Support tool works, with guidance by the Student Safeguarding and Equality Manager. In this, it is stated that the tool is for anyone within the university community to report ‘inappropriate behaviour’, including sexual violence and misconduct. In the video, the key difference between an anonymous report and a named report is that in the former, an adviser will get in contact either via email or telephone for a follow-up support discussion. In the case of GBV, this will be from one of the 7 or 8 ‘specialist Sexual Violence Misconduct Liaison Officers’ (SVMLO), who are described as being able to give information on what a formal report of GBV would entail, both internally through the University complaints procedure, or indeed to the police. In opposition, the anonymous report can only be used for monitoring events and improving the student experience. Towards the end of the video, the speaker describes the University as having a ‘zero-tolerance’ approach towards any inappropriate behaviour, before encouraging reports to be made. While there are further discussions of zero-tolerance approaches below, it seems that – at Napier at least – the use of the Report + Support is both the basis and the product of the culture of zero-tolerance.

⁸⁸ Edinburgh Napier University, ‘Report and Support’, Available at: <<https://reportandsupport.napier.ac.uk/>>

On the online forms themselves, an anonymous report follows a straightforward series of pages, each with one question clearly displayed at the top. The initial page reassures the reporting individual that the selected option is anonymous, before reiterating the limitations and uses of an anonymous report. The pages then progress through gathering information on the reporting party (whether they are student, staff, visitor, trained liaison officer, or other) as well as details the reporting party's connection to the university. The tool then provides 11 options to best describe the events related to the report – five of which could fall under the broad umbrella of GBV, although others such as verbal abuse and non-sexual harassment may overlap.⁸⁹ Unlike some other HEIs that use the Report + Support tool, Napier do not have an option to select 'GBV' as its own description of events. This is noteworthy as much of the language and guidance in the sector now uses this terminology. Indeed, there is a dedicated webpage for GBV on the Napier website, and the 'zero-tolerance' webpage explicitly mentions GBV.⁹⁰ Having information on GBV across the university website and outlining the zero-tolerance approach as being directed towards GBV may confuse students as to why it is not available as an option for reporting to the institution. While there are sufficient options to cover the majority of acts and behaviours that would constitute GBV, it would be preferable to have a consistency of language across the whole website to provide continuity for students at Napier.

Following the description of events, Napier allows for reporting parties to indicate whether they believe the incident was 'motivated by hostility or prejudice, based on [the listed] characteristics', even in cases of sexual assault and harassment.⁹¹ Then reporting parties are given space to detail the specifics of the event – location, circumstances, date and time. Vitaly, this includes non-university events, and the option 'while on placement'.⁹² Following this, the questions turn to the reported party, asking about their gender, relationship to the reporting party as well as the university. Next, optional equality and diversity questions are asked on the reporting party's age, sex, gender identity, ethnic group, sexuality, disability, and religion.

⁸⁹ Sexual violence, sexual misconduct/harassment, spiking, relationship abuse, and stalking. See: <<https://reportandsupport.napier.ac.uk/report/anonymous#step-5>>

⁹⁰ Edinburgh Napier University, 'Gender-based Violence: What is gender-based violence?' <<https://www.napier.ac.uk/about-us/university-governance/gender-based-violence>>, and 'Zero-Tolerance' <<https://my.napier.ac.uk/wellbeing-support-and-inclusion/zero-tolerance>>

⁹¹ See: <<https://reportandsupport.napier.ac.uk/report/anonymous#step-6>>

⁹² Students who are not at their HEI are still held to the same standards of behaviour, even if they are studying abroad at another institution. See *AB v University XYZ* [2020] EWHC 2978.

The final question asked as part of the Report + Support anonymous tool is why the report has been made without contact details. This question is not mandatory, and students could skip the step altogether and still submit a report. Fourteen reasons are given as options, ranging from ‘I don’t have the time to make a formal complaint’, to ‘I’m worried about retaliation’. Vitaly, this includes ‘I don’t think it’s serious enough to warrant a complaint’ which, as shown in the previous section, is continuously found to be a central reason students give as to why named reports are *not* made. From this, it can be seen that the university is at least aware of the landscape surrounding complaints of GBV in HEIs.

Glasgow Caledonian University (GCU)

As with most of the other HEIs included in this section, GCU uses a nearly identical landing page for online reporting tool. However, when accessing the anonymous reporting form, GCU differs from Napier as the descriptive options for the incident does include a specific event of ‘Gender Based Violence’, which they described as:

‘Harmful acts directed at someone based on their sex or gender. These harmful acts include, but are not limited to, domestic abuse (including coercive control), sexual violence (including rape), sexual harassment, stalking, forced marriage, and female genital mutilation (FGM).’⁹³

Upon selecting the option for GBV, reporting parties are further prompted to categorise the incident as one or more of five options: sexual harassment, sexual violence, domestic abuse, honour-based violence, and stalking. Alternatively, individuals can indicate if they would prefer not to say, or if the event was ‘other’ than the options listed. For each of these, descriptions are given of each that guide individuals on if they apply. By including the option to specifically describe the event as GBV, GCU maintains uniformity across their institutional resources and wider sector language which provides clarity and consistency to students seeking to make a report. Along with this, completion of a free-text box is required, with details on the event. The following reassurance and guidance is given:

⁹³ Glasgow Caledonian University, ‘GCU - Report Anonymously – Step 2’ (Report + Support - Glasgow Caledonian University) Available at: <<https://reportandsupport.gcu.ac.uk/report/anonymous#step-2>>

“We know this is hard, some of the things to think about are the type of incident and what occurred, as well as where it happened and what date and time. Also, if you know the person please include their name, and if not please provide a brief description. The more information you provide, the more we’ll be able to help you or others.”

It is noteworthy that GCU have made this box a requirement of submitting the form, however this is understandable given that the anonymous report offers no option for staff to follow up for further information. In order to progress with the form, a singular full stop was entered into this box, which was sufficient to continue. As seen elsewhere, the form then asks which area of the University the reporting party is connected to, and an option is given to express whether the individual feels whether a list of factors ‘played a role in what was experienced.’⁹⁴

Again, the final substantive question is one of why the report is anonymous. However, the language differs in this section. Where Napier had an option for perceived seriousness written in subjective language, GCU have the option as simply ‘it is not serious.’

Rather than couching the explanation in the reporting party’s perception of the event, such as with ‘I *feel* embarrassed/ashamed’ or ‘I *feel* like they have more authority than me’⁹⁵, the language used in the GCU tool carries a different tone. This is notable not only as it is in direct contrast to alternative answers to the same question, but also has the potential to be extremely discouraging, or even to dissuade the report being made entirely. Where other HEI tools approach this option using language which correlates to the reporter’s perception (for example, ‘I *don’t think* that it is not serious *enough* to warrant a complaint’ at Napier), this statement appears to attach a judgement to the report (or rather, requires that reporters make this judgement for themselves) which is far more definitive and objective. In prompting users to classify their own complaint as ‘not serious’, the tool may inadvertently serve to undermine complaints before they are made, or indeed discourage reporters from continuing with the process. While there is an option for ‘other’, this fails to capture the student experience of procedures, which has been consistently documented in surveys across the country.

⁹⁴ For example, protected characteristics that may constitute a hate crime.

⁹⁵ These are both direct quotes from the GCU reporting tool, specifically question eight, which asks why the reporter has chosen to report anonymously. [Italics added for emphasis]

Glasgow School of Art (GSA)

The language and format used by GSA is a near complete mirror of that used by GCU. This means that they share the same positives and negatives, such as the beneficial inclusion of the specific description of GBV, but also the objective language of ‘it’s not serious’ in the latter question. The accompanying description of GBV given on the GSA tool is identical to that on the GCU website. One reason for this may be that HEIs (and Further Education Institutions) in Glasgow were jointly awarded funding to pilot a Report + Support tool for the academic year 2021/2022, including GCU, GSA, the Royal Conservatoire, Strathclyde University, and Glasgow Caledonian University.⁹⁶ The University of Glasgow was not awarded funds as part of this project, although it is likely that this is because a tool performing the same function was already in place.

There is no major difference to note between GSA and GCU, the only noticeable change being that at GCU the reporting student is given an opportunity to provide specifics (date, time, details) of the incident(s) on the same page as the descriptive options, whereas at GSA there is a separate page. This page is comprised of a free-text box, with the following prompt:

“This is your opportunity to tell us what happened (optional).

We know this is hard, some of the things to think about are the type of incident and what occurred. The more information you provide, the more we'll be able to help you or others.”

At GSA this step is optional, while at GCU the report cannot continue until something has been entered into the text box.

Queen Margaret University

The landing page for Queen Margaret University (QMU) provides the usual two options for reporting, named and anonymous, however the language of these is unique. The two options

⁹⁶ Scottish Government, ‘Funding Provided to Fearless Glasgow: FOI Release’ (2021) Available at: <<https://www.gov.scot/publications/foi-202100215907/>>

are ‘tell us anonymously’, or ‘tell us what happened’. It is not clear this is beneficial reporting and may even suggest that to make an anonymous report is not telling the HEI what happened.

Moving to the reporting form itself, the options for categorising the incident(s) do not include GBV, however do provide definitions of ‘rape, sexual assault and/or sexual harassment’ as well as ‘relationship abuse and/or coercive control’. With much of the sector now using the terminology of GBV in much of its guidance and communications, it would be beneficial to see HEIs following this in their own tools.

Finally, the same issue arises at QMU in the omission of subjective language around the reporting party’s concerns of seriousness. By phrasing the option as ‘it is not serious’, the HEI seems to impart a conclusive opinion of the incident(s) before it has even been reported.

Robert Gordon’s University

As mentioned at the outset of this section, Robert Gordon’s University (RGU) was the first HEI to pilot the Report + Support tool in an effort to provide a ‘user-friendly way to gather data about GBV on campus’.⁹⁷ As shown on the data table, RGU does not have an option to report an event(s) as GBV, instead providing the options of sexual harassment or sexual assault. One point to note about RGU is the specific inclusion of spiking as an event to report. The university includes definitions of both drink spiking and injection spiking:

*‘**Drink Spiking** is when a substance is added to a drink without the drinker's knowledge or consent to make them vulnerable. This could be recreational/party drugs, other drugs such as Rohypnol being added to drinks or additional shots of alcohol being added to drinks without the persons knowledge or consent to make them stronger.*

***Injection Spiking** is when a drug is administered directly into a person via a needle without the persons knowledge or consent to make them vulnerable.’*

⁹⁷ Stalker (n86)

It is likely that the specific inclusion of spiking was a response to the increase in student reports of spiking, particularly by injection.⁹⁸ RGU can be commended for proactively responding to contemporary evidence that students are experiencing a particular form of violence, however it may be that the inclusion of a more general option to report ‘GBV’ could encompass incidents such as spiking.

As with GCU above, one shortcoming of the RGU tool is that the option for seriousness is only given as ‘it is not serious’. In the same way as already mentioned, this fails to recognise the impact that language has on a reporting student’s experience, and lacks a survivor-centred approach.

The Open University

One quickly notable difference with the Open University tool is that it provides the option for reporting students to indicate what *type* of student they are, whether that be student/learner, postgraduate research student or former student of the university. This is important as it reflects the varying relationships that arise at different stages and in differing professional environments across the institution, and can also help gather data for the university on prevalence and potential areas of concern.⁹⁹ The Open University form also prompts reporting parties to identify the type of student (or staff/other) that the reported party is, which can again provide information on the specific power dynamics that may exist between students and other members of the university community.

By providing space to identify different relations across an HEI in the reporting process, the Open University is acknowledging the GBV is not a uniform experience, and in this way attempts to make their process survivor-centred.

⁹⁸ Universities UK, ‘Spiking: what universities can do’ (2023) Available at:

<<https://www.universitiesuk.ac.uk/what-we-do/policy-and-research/publications/spiking-what-universities-can-do#:~:text=At%20the%20start%20of%20the,higher%20than%20in%20previous%20years>>

⁹⁹ Addressing each of these varying relationships is out with the scope of this research. However, Anna Bull and the 1752 Group have written extensively on addressing staff-student sexual misconduct. An overview of their academic research and publications is available at: <<https://1752group.com/research/>>

University of Edinburgh

As with other Report + Support tools, Edinburgh's asks about the incident, reporting party, alleged perpetrator, and reasons for not reporting. The first question asked is how to describe what happened, however this page provides more definitions, owing to the fact that the option for 'hate incident' is further broken down into six subcategories including the option for 'Subtle Acts of Exclusion (Microaggressions)'. A further difference at Edinburgh is that the questions about the specifics of the incident(s) are on the same page as these definitions, with a free text box for where, when, and who was involved, as well as location prompts. It is, however, possible to advance to the next page without completing this section meaning that an anonymous report could be made with very little information.

As for the final question of why the report is anonymous, Edinburgh do not have *any* mention of a perception or worry that the event is not serious enough to report. Of the thirteen available prompts, many feelings and worries are covered, however it again is an oversight not to include the reason that has been found to be most prevalent in the prevention of making a named report.

University of Stirling

Contrary to the other Report + Support tools in Scottish HEIs, the University of Stirling immediately asks the anonymously reporting student why they would prefer to keep the report anonymous. For the other HEIs, this question comes close to, if not at, the end. It is not clear why the institution has chosen to do this; however, it is foreseeable that asking such a question at the outset of the process may be off putting for reporting students as they feel they have to justify their choice before describing the incident.

Further - despite it being a central reason students feel they cannot report GBV to their institution, the University of Stirling have no option for students to express that they have concerns the incident is not serious enough to report.

University of St Andrews

St. Andrew's University differs from all other HEIs that use the Report + Support tool in Scotland, in that the language on the landing page deviates from the terms of making a 'report'.

Instead, the options are ‘Disclose anonymously’, and ‘Disclose with contact details.’ While there is an argument that it could dilute the clarity of the page – as the title and headings all use report (and support) – it may be preferable to students as they feel assured that disclosing information on an event or incident(s) will not necessarily lead to disciplinary action. This goes towards lowering what many students see as the high stakes of a university reporting process, captured in the suggested reasons to remain anonymous such as ‘I’m worried about the repercussion for me or others’, and ‘I don’t want anyone to know what happened’.

Concerning the reasons offered by St Andrews to students who wish to remain anonymous, there are more than the Report + Support tools at other Scottish HEIs – the average among the others being 13 plus a further ‘other’ option, while St Andrews has 20 plus an ‘other’. The list given is particularly comprehensive, ranging across a number of potential experiences students may experience, each being accompanied by a statement from the University on how they would seek to mitigate or address that particular concern. One example is as follows:

‘I’m worried I won’t be believed.

We are committed to accepting the disclosures that people make on face value. We know it takes courage to make a disclosure, or let you know about a concern or conduct issue, so if you’ve found this form, we want to help as much as we can. Making a disclosure with contact details means that we can get back to you, and offer support directly.’

This seems to be cognizant of the specific circumstances that report of GBV are often made under, making the Report + Support tool at St Andrew’s one of the most trauma-informed, and survivor-centred. While there is no specific option for fears around the seriousness of the event, it appears that this concern is encompassed in the available reasons given. It is admirable that these additional texts have been included and sets St Andrew’s apart from the other HEIs.

University of the West of Scotland (UWS)

The first thing to note about UWS’ Report + Support tool is that it is the only institution that has changed the layout of the landing page. While all other tools included in this research project have placed their own variations of ‘Report anonymously’ on the left, and ‘Report with contact details’ on the right, UWS have reversed this with the anonymous option on the right. The reasons for this are not clear, but it undermines the uniformity across the sector that would

be welcome. When the page is minimised, the options move vertically one above the other, meaning that the option to report with contact details moves to the top. It may be that by switching the formation of the two options, UWS is seeking to encourage students to make a named report by visually placing it as the ‘first option’. Nonetheless, it is not possible to know the motivations behind this without qualitative data collection from the individuals who designed the tool at UWS.¹⁰⁰

Positively, UWS do include an option to categorise the reported incident(s) as GBV, with their definition as follows:

‘GBV refers to harmful acts directed at someone based on their sex or gender. These harmful acts include, but are not limited to, domestic abuse (including coercive control), sexual violence (including rape), sexual harassment, stalking, forced marriage, and female genital mutilation (FGM).’¹⁰¹

By aligning their institutional language with the guidance that instructs the sector, UWS may help students by providing consistency between country-wide guidance such as the *Equally Safe* project and institution-specific reporting mechanisms.

2.2.2 HEIs with alternative report mechanisms

Abertay University

Abertay University is a modern/post-92 university in Dundee, primarily situated on a campus in the city. In 2021/22 there were 4,790 students recorded, making it one of the smallest HEIs in Scotland. Searching for the terms ‘gender based violence Abertay’ online raises a number of pages, one being the ‘*tellus.abertay*’ site – with separate pages on making a report and accessing support. Navigating to the reporting page, students are first met with a statement concerning the zero-tolerance approach taken by Abertay:

¹⁰⁰ This is one reason why further research involving interviews or qualitative data collection of this kind may be beneficial to more clearly understand why there are discrepancies and differences across the sector.

¹⁰¹ University of West of Scotland, ‘Report + Support: *Report Anonymously*’ Available at: <<https://reportandsupport.uws.ac.uk/report/anonymous#step-2>>

'At Abertay, we have zero-tolerance for sexual violence, discrimination, abuse, bullying, harassment or racism.'

Before any options for making a report are given, a further statement explains the available outcomes for each reporting option. It is made clear that an anonymous report will be used by the university to 'improve students' experiences', but it will not be possible to provide support from the university advisors, nor will this report begin an investigation or complaint process. However, students are told that their report will be given a number which can be referenced in future, should they change their mind and wish to access further support or complaint processes.

The options for making a named report are split into two: 'making a report to a student adviser', 'raising a formal complaint'. The former includes reporting an incident(s) to a student adviser, who can explain and guide towards support systems and possible formal process including the police as well as the University's disciplinary process, while the option for making a formal complaint involves only the instigation the University's misconduct procedures. It is however mentioned that the University may feel that reporting to the police is appropriate if the alleged misconduct involves criminality.

After clicking on the button to raise a formal complaint, a new screen opens that prompts a login to Abertay's intranet. Presumably this is to aid in the managing and tracking of formal reports made to the University, however this gives rise to questions on whether this may be an additional step that may be off putting to students, even if a named report is desired.

Making a report to an advisor at Abertay opens a new site with 6 pages, the first question asking whether the report is on behalf of yourself or somebody else, including the option to make a report as an anonymous witness. Additionally, there is an option for visitors of the university to make a report to a student advisor through this page. Regarding the events being reported, there are nine options, including three which fall under GBV.¹⁰² For each of these, there is an option to see more information on how each of these terms is understood and what behaviours might be included. Questions are then asked about the details of the incident, including date,

¹⁰² Sexual harassment, sexual violence, and relationship abuse are all explicitly elements of GBV, however non-sexual harassment and bullying could be involved in a course of behaviour linked to GBV. See: <https://tellus.abertay.ac.uk/report/anonymous/>

time, and location before a question asking whether this event is believed to have been motivated by discrimination against a protected characteristic, however it is stated that:

'For reports of sexual violence/harassment or relationship abuse, select "Not Applicable" and go straight to the next question.'

It is not clear why this guidance is given; however, it may be that if there were protected characteristics motivating an incident of GBV, this would be picked up in follow up discussions with an adviser. This would be the most charitable interpretation, but it may be more plausible that the majority of cases reported through this form are not seen as being a result of discrimination. Given that women of colour and women with disabilities are more likely to be victimised in the context of sexual violence, it seems an oversight that reports of GBV are instructed not to indicate whether discrimination was present. As Maria Bustillo of the UniSAFE working group noted; seeing intersectionality as layers implies that they can be separated and seen in isolation, in direct opposition to the lived experience of those identities. It is vital that intersecting characteristics are seen as a compound, and not individual elements.

There is of course, a practical consideration that the format of an online form does not lend itself to nuance, and as mentioned it may be that there is space for reporting students to make specific circumstances known to advisers. That being said, this oversight may show that this system is not suited for this type of complaint. Often these factors could not be more significant or relevant in the perpetration of GBV.

There is a further question on which area of the university that connection is to (i.e., which academic school or employment group such as finance or services etc.). The option is also given for other, not known, and prefer not to say.

University of Aberdeen

The University of Aberdeen has titled their online reporting page 'Confidential Reporting', however many of the substantive elements bear a resemblance to the Report + Support tools seen elsewhere in the sector. Fundamentally, there are two options to report – anonymously, and named. When students select the anonymous reporting option, there is a helpful page that outlines what students can expect from the process, what options are *not* available to them (i.e.,

speaking to an adviser or beginning a complaints process). This is a crucial inclusion in the process as one issue identified with how HEIs respond is the difference between expectations and the reality of reporting.

Another positive of the Aberdeen reporting tool is the inclusion of the option to categorise an incident as GBV, defined as,

‘Violence or harassment directed at someone on the basis of gender. This can include acts that cause physical, sexual, or psychological harm.’

Once this option has been selected, there is a further drop-down menu of ‘situations’ that may relate to the report being made, including physical, online, verbal or other abuse, as well as coercive control and options for prefer not to say and not sure. Like many, if not all other HEIs, Aberdeen have provided definitions for each of the incidents that can be reported, however Aberdeen also includes a qualification that:

‘The definitions provided on this page are for illustrative purposes only and are not a definitive list; often there is overlap between definitions. If you have experienced anything that has made you feel uncomfortable you can report it, either anonymously or with contact details.’

This acknowledges that some students who have experienced GBV may not understand or qualify it as such, and while the definitions can be helpful guidelines, ultimately the University welcomes any report of events that may be distressing to students. In this way, this element of the University of Aberdeen’s tool practices a survivor-centred and trauma-informed approach, understanding that GBV can impact individuals in a myriad of ways.

University of Dundee

The University of Dundee have an online form that sits on their ‘Support for students who are dealing with gender-based violence’ page, which provides support links, as well as some guidance on making a report to the police and reporting to the University. For the latter, Dundee has used a Microsoft Office form, titled ‘raise a concern’ which is focussed on making a complaint against someone, rather than reporting an event or incident(s) from the perspective

of the individual who experienced the GBV. This may become complicated if the reporting student does not know the identity of the individual who perpetrated the GBV against them, and unfortunately positions the university's focus on disciplining rather than support. In this way, the process does not appear to be survivor-centred or trauma-informed.

Once the details (if known) about the individual concerned are gathered, Dundee provides a relatively long and comprehensive list of incident(s) that can be reported, including 'sexual abuse' and 'sexual misconduct'.¹⁰³ Separately included are both a 'criminal act' as well as 'harassment'. As discussed in the preceding chapter, GBV reported to an HEI could encompass all of these elements, and so it suggests a false dichotomy that students must select each of these individually.

When it comes to questions around why the incident has not been reported in other ways (i.e., with contact details), the University of Dundee includes a question on why the concerns have not been reported to the Police. While this may be useful information for the University to have, a survivor-centred approach would most likely omit this question at this stage, with an understanding that experiencing GBV is often very distressing, and discussions of a formal police report may be intimidating to the victim/survivor. Students may choose to make a report to the police as well as reporting to the university, but many HEI surveys and criminal justice statistics support the fact that reporting of GBV is much lower than prevalence statistics and therefore it is important not to imply that reporting to the university is contingent on making a report to the police.¹⁰⁴

University of Glasgow

The University of Glasgow uses an online reporting tool, which falls under the 'Safety, Health, and Wellbeing' section of the website. Similar to Herriot-Watt and Strathclyde described below, instead of the multi-page format of the Report + Support tool, students at Glasgow are presented with only one page, comprised of five questions. As such, it is briefer than the

¹⁰³ Interestingly, there are a number of concerns that the University of Dundee provides that are not seen on any other HEIs reporting page, such as 'spreading false rumours of a malicious nature' and 'fitness to practise/professional practice concern'. It is feasible that an incident of GBV could raise concerns of both of those things.

¹⁰⁴ More on this in Chapter 3, and why emulating the criminal justice system in HEIs is not beneficial to victim/survivors.

majority Report + Support tools. Indeed, it really only covers the basics of what happened, whether the affected party is a student, staff, or visitor and an optional question on possible motivating factors.

At the University of Glasgow, there are 8 options and a ninth 'other' box for describing the reported situation, including sexual harassment and sexual violence. None of these specify GBV. More information is available on the definition of these terms, with sexual harassment described as:

'Any unwanted behaviour of a sexual nature that an individual finds offensive, or which makes them feel distressed, intimidated or humiliated.'

And sexual violence is defined as:

*'a sexual act committed against someone without that person's freely given consent. This includes completed or attempted acts.'*¹⁰⁵

While there is no option for reporting GBV, the accompanying support pages refer to sexual violence and harassment, and so it is positive to see a consistency of language across the website. Nonetheless, the recent Ross Report at the University was centred around assessing the University's approach to addressing *GBV*, and therefore it would be preferable to see the same terminology carried across to the tools themselves.¹⁰⁶

Herriot-Watt

Herriot Watt University offer an online reporting form that they distinguish from the 'formal complaint' process, through which students can choose from a 'menu'¹⁰⁷ of options. The webpage is titled 'Report It' and falls under the SafeGuarding Services section of the

¹⁰⁵ Reporting form: harassment, bullying or sexual violence: Guidance for Submitting a Report, Available at: <https://www.gla.ac.uk/myglasgow/students/safetyhealth/report/#guidanceforsubmittingareport>

¹⁰⁶ Ross (n81)

¹⁰⁷ (Undated) Available at: <https://herriotwatt.info-exchange.com/ConfidentialReportForm>

website.¹⁰⁸ The University describe the tool as allowing for the submission of confidential information,

*'If need be anonymously, in the event of unacceptable behaviour such as harassment, bullying or abuse of any kind.'*¹⁰⁹

Unlike the Report + Support tool, the questions on making a report for Heriot Watt are contained all on the one page, and while they gather similar information, there are several differences. One difference that may be taken as a positive is that when asking the type of behaviour being reported, Heriot Watt lists 15 options (including 'other') that deviate from the formal – almost legal – descriptions seen elsewhere. Instead, the HEI has presented more individual instances outlined in plain language. While GBV is not an option itself, several of these would fall under the umbrella category. Many of the options include explicit reference to a lack of consent, or inappropriate nature of the behaviour. This may be more useful for students seeking to make a report, as they may not have self-identified the behaviour they have experienced as 'sexual harassment', 'assault', or 'relationship abuse', as seen in other HEI tools. By presenting the behaviours in this way, the reporting mechanism at Heriot Watt seems to have taken steps to ensure their tool is survivor-centred and trauma-informed.

There is no question on why the student has chosen to remain anonymous (a question contained on many of the other tools). Instead, there is a question on why the report is being made at all, including the option 'I have already spoken to someone at the university and the action taken was not...'

In terms of user-friendliness, the options have not been formatted well, as for both the 'type of behaviour' and the 'why the report is being made' questions cannot be seen in full, trailing off before completion. It looks as though the bullet points remain unfinished as the formatting of the form is such that it cannot be seen on an average sized computer screen. It may seem pedantic to highlight these formatting issues, but oversights like these can be fatal to the success of a complaint and the vital accessing of support, as there are already many issues that may discourage a student from making a report.

¹⁰⁸ At the bottom of the page, information is given that the website is 'Powered by Info Exchange' – an integrated platform that may provide similar services to that of the Culture Shift tool.

¹⁰⁹ Heriot Watt University, 'Report It' <<https://www.hw.ac.uk/uk/services/safeguarding/report-it.htm>>

University of Strathclyde

The University of Strathclyde use the same website host for their reporting tool as Heriot Watt, and therefore the website looks largely similar. The university states that,

*'You can use this form to report problematic behaviours such as harassment, **Gender-based Violence**, stalking, discrimination, or to raise concerns about safety, and issues that undermine our inclusive University.'*¹¹⁰

There is a link provided to a page elsewhere on the website which outlines definitions and support related to GBV. Notably however, Strathclyde do not provide any prompts or descriptions on the type of event or behaviour that is being reported, and therefore don't reference GBV on the reporting tool itself. Instead, there is a free text box, with the prompt to 'describe the issue or concern'.

2.2.3 HEIs without a dedicated online reporting mechanism

Scotland's Rural College (SRUC)

Upon searching for the key terms along with 'SRUC', no student conduct-specific procedure was found. Instead, there is a section for complaints under the 'Compliance' page of the website which also contains information on GDPR, the SRUC's Climate Change Action Plan, and Accessibility among other things. In the preamble of this section, students are told that they can make a complaint if they feel SRUC has not provided 'excellence in all services delivered' across the institution. While complaints of this manner are important and have a place within institutional reporting mechanisms, it perhaps muddies the waters for students seeking a way to report serious student misconduct in the form of GBV. Additionally, the text on the complaint process states that students should first,

¹¹⁰ Strathlife, 'Report & Support' <<https://www.strath.ac.uk/whystrathclyde/safe360/reportsupport/>> Bold added for emphasis.

*'Try to raise the matter directly with the person/service area that the complaint relates to.'*¹¹¹

This may be appropriate if the complaint relates to the quality of learning resources but is inappropriate and potentially damaging to suggest that complaints of GBV should be dealt with by students themselves. Particularly in the case of GBV, this risks not only the wellbeing and safety of the reporting student but may alienate the student from the reporting process thereby excluding them from accessing the available support and subsequent disciplinary actions that could be necessary.

The webpage has a subsection for 'if you are a student', which encourages students to contact the relevant Faculty Office or Registry of each individual campus of SRUC. On the printable version of the form this is joined by encouragements to speak to the

'Campus senior tutor, Education Office, or Students Association representative before completing the form'.

The reasons given for this are that these individuals or offices have 'experience of supporting students with complaints' and can help students to decide which process is appropriate for their specific report. Further, students are told that they can also receive information on how the complaint procedure operates and the available outcomes. While this is useful information to include, it is an omission that there is no information available on how the reporting process works on the website itself.

A guide to SRUC's complaints handling process is available to download as a PDF from this webpage, but again the direction for students who may have experienced GBV is unclear. For example, a list is given of potential issues which can be complained about, and those which cannot. Among the things that *can*, is the 'conduct, treatment by or attitude of a member of staff', as well as the 'student disciplinary process' itself. However, concerns about 'student misconduct' is included on the list of issues that *cannot* be complained about. Confusingly, the direction for student misconduct states that,

¹¹¹ SRUC, 'Complaints Handling Procedure: Making a Complaint.' <<https://www.sruc.ac.uk/connect/about-sruc/policies-compliance/compliance/complaints-handling-procedure/>>

*'A concern about student conduct should be raised through the complaint handling procedure but we may then consider it through another procedure.'*¹¹²

Given the extensive engagement with other, comparable reporting tools in conducting this project (and the broader literary context of the research in general), it is concerning that the layout and configuration of this tool is so convoluted and unclear. This would appear not to bode well in terms of the accessibility of the tool for students who have experienced GBV wishing to make a report. It is foreseeable that such a student could be in considerable distress and having to negotiate the various contradictory instructions on the SRUC reporting site would be off putting at the very least.

Nonetheless, if a student chooses to 'raise a concern' about student conduct via the online form, they must include their full name, email, and telephone, and can only outline their complaint in a free text box along with the option to provide a 'suggestion of solution'.¹¹³ Again, this lack concern for a trauma-informed and survivor-centred approach means that students who wish to flag an incident or course of behaviour to the SRUC could not do so anonymously.

Royal Conservatoire of Scotland

Despite receiving funding as part of the Fearless Glasgow Report + Support pilot, the Royal Conservatoire of Scotland (RCS) do not have an online reporting tool. According to a Freedom of Information (FOI) request published in July 2021, RCS received £3,480.77 to in order pilot a tool.¹¹⁴ It is not clear whether the money was put towards a Report + Support tool that was then removed, however searches for the reporting process for RCS only showed the general 'complaints' page.

RCS is the same as SRUC as the language on their complaint page references the guidance provided by the SPSO in their guidance to HEIs.¹¹⁵ Rather than direct students on what

¹¹² SRUC, 'Complaints Handling Procedure Guide' (2021) <<https://www.sruc.ac.uk/media/lwvctg3o/d7-1-complaints-handling-procedure-student-guide.pdf>>

¹¹³ SRUC (n111)

¹¹⁴ (n96)

¹¹⁵ Scottish Public Services Ombudsman, 'Higher Education: Guide for Students' Available at: <<https://www.spsso.org.uk/sites/spso/files/csa/SPSOKPIsMCHP.pdf>>

behaviours can be reported themselves, RCS have uploaded the SPSO guidance document to their website. By doing this, they run into the same issues as SRUC, as this contains conflicting information on where reports of student misconduct should go. On the one hand they are not to be included in the complaint form, on the other they are.

The RCS website itself does not provide any further help, instead stating:

'If you have a complaint about a service which is the Conservatoire's responsibility and you have been unable to resolve this by raising the matter with the department or service area concerned, please complete the Complaint Form below to help us to investigate your complaint.'

The language of this leaves much to be desired, particularly the elements which imply the students should take matters into their own hands by raising the matter themselves. Not only does this create an onerous burden on the reporting student who has experienced GBV, but it fails to provide any sort of robust support or take responsibility for the care of the student on behalf of the HEI.

University of the Highlands and Islands (UHI)

UHI are unique among Scottish HEIs in that they do not have an online form through which students can lodge a complaint. While there are references to the complaint process as guided by the SPSO, there is no specific place to start that process on this page. Instead, a separate page on 'Support from UHI' outlines the more relevant information on what will happen if a disclosure is made to a member of staff about student misconduct, and how disciplinary procedures are instigated from this point. This page falls under the group of pages under the title 'Gender Based Violence'.

On the main GBV page, it is laid out what is meant by GBV at UHI, as well as a clear statement that GBV is unacceptable under the Student Code of Conduct. Therefore, students can assume that they can make a report of any of the behaviours understood as GBV to the university. However, instead of being pointed towards an online form, as with all other HEIs, students at UHI are told that there is support available should they wish to discuss anything.

¹¹⁶Our network of Student Support Staff are trained in listening and responding to sensitive matters such as Gender Based Violence, and can help you talk through your feelings and options.'

Unfortunately, this must be seen as an omission from UHI, as failing to provide a way that students can report an incident, concern, or distressing course of behaviour to the university without speaking to a member of staff means that only those willing to be identified can receive support.

¹¹⁶ University of the Highlands and Islands, 'Gender Based and Sexual Violence: Support from UHI'
<<https://www.uhi.ac.uk/en/students/support/support-to-keep-you-safe/gender-based-and-sexual-violence/support-from-uhi/>>

HEI	Online Reporting?	Report + Support?	URL	Students (2021/22)	University Grouping	Option to describe as GBV?	Seriousness language
The Glasgow School of Art	Yes	Yes	https://reportandsupport.gsa.ac.uk/	2,440	SSI	Yes	I've told someone before but it wasn't taken seriously; It's not serious
Queen Margaret University	Yes	Yes	https://reportandsupport.qmu.ac.uk/	6,250	Modern university	No	I've told someone before but it wasn't taken seriously; It's not serious
University of St Andrews	Yes	Yes	https://reportandsupport.st-andrews.ac.uk/	11,820	Ancient university	No	I've told someone before but it wasn't taken seriously; It's not serious
Robert Gordon University	Yes	Yes	https://reportandsupport.rgu.ac.uk/	14,970	Modern university	No	I reported it but no one took me seriously; It's not serious
Edinburgh Napier University	Yes	Yes	https://reportandsupport.napier.ac.uk/	15,530	Modern university	No	I don't think its serious enough to warrant a complaint
University of Stirling	Yes	Yes	https://reportandsupport.stir.ac.uk/	15,530	Chartered university	No	No option
Glasgow Caledonian University	Yes	Yes	https://reportandsupport.gcu.ac.uk/	20,050	Modern university	Yes	I've told someone before but it wasn't taken seriously; It's not serious
University of the West of Scotland	Yes	Yes	https://reportandsupport.uws.ac.uk/	20,070	Modern university	Yes	I've told someone before but it wasn't taken seriously; It's not serious
University of Edinburgh	Yes	Yes	https://reportandsupport.ed.ac.uk/	41,250	Ancient university	No, but more options written in plain language.	I've reported it but no one took me seriously;
The Open University (OU)	Yes	Yes	https://report-and-support.open.ac.uk/	21,180 (in Scotland)	Public distance learning university	No	I've told someone before but it wasn't taken seriously; It's not serious
Abertay University	Yes	No	https://tellus.abertay.ac.uk/report/	4,790	Modern university	No	N/A
Heriot-Watt University	Yes	No	https://www.hw.ac.uk/uk/services/safeguarding/report-it.htm	11,680	Chartered university	No, but more options written in clear language.	N/A
University of Aberdeen	Yes	No	https://www.abdn.ac.uk/confidential-reporting/home	16,565	Ancient university	Yes	N/A
University of Dundee	Yes	No	https://www.dundee.ac.uk/guides/gender-based-violence	18,100	Chartered university	No	N/A
University of Strathclyde	Yes	No	https://www.strath.ac.uk/whystrathclyde/safe360/reportsupport/	25,715	Chartered university	No	N/A
University of Glasgow	Yes	No	https://www.gla.ac.uk/myglasgow/students/safetyhealth/report/	42,980	Ancient university	No	N/A
Royal Conservatoire of Scotland	No	No	https://www.rcs.ac.uk/complaints/	1,245	SSI	N/A	N/A
Scotland's Rural College (SRUC)	No	No	https://www.sruc.ac.uk/connect/about-sruc/policies-compliance/compliance/complaints-handling-procedure/	1,700	SSI	N/A	N/A
University of the Highlands and Islands	No	No	https://www.uhi.ac.uk/en/students/support/support-to-keep-you-safe/gender-based-and-sexual-violence/support-from-uhi/	10,005	Modern university	N/A	N/A

Figure 2-2. A table showing the online reporting mechanisms of each of Scotland's 19 HEIs.

2.3 How do HEIs *respond* to a formal report of GBV?

In the same way as with the set-up of the online reporting system at each HEI in Scotland, each individual institution has its own unique policies and guidance documents on how the report will be considered and managed *after* it has been submitted. As considered, an anonymous report does not necessarily trigger any follow-up action by the institution on support available or disciplinary options. For that reason, only the HEI response to a named report will be considered. One institution from each of the previous categories (Report + Support HEIs, HEIs with an alternate online reporting tool, and the remaining three without a dedicated reporting tool) will be identified and an example of their process will be outlined. For ease of comparison, the largest HEI (by students 2021/22) will be chosen from each category: the University of Edinburgh, University of Glasgow, and the University of the Highlands and Islands.

2.3.1 Report + Support HEIs

On the initial Report + Support page for The University of Edinburgh, it was difficult to find any information on what would happen once a named report was made without going into the reporting tool itself. However, by navigating to the Report + Support tool for a named report, the following information was provided on the first page:

'Things will feel difficult at the moment, but by choosing to report with your contact details, we'll be able to help provide you with specific support. Your safety and wellbeing is our key priority and we recognise your courage in coming forward. The staff who contact you will believe you, not pass judgement and are trained in taking disclosures and supporting people. Please take a break if you need to, or complete with a trusted friend.'

***PLEASE NOTE: This site is not designed to receive urgent reports. You will be contacted within 2 working days of submission of this report. This site is not monitored during University closure periods including bank holidays**'*

On the latter pages of the named report, students were provided with an opportunity to state how they wished to be contacted (phone, email), as well as select whether they would like to

speak to a man or a woman. While specifics were not given on who and when the student would be contacted, it can be surmised that this individual is ‘trained in taking disclosures and supporting people’, and that contact would be made within 2 working days.

On a page separate to the Report + Support tool, the University of Edinburgh has a page titled ‘Our work on gender-based violence’, where they provide information on ‘getting support from the university’. This outlines that students with a concern about GBV can report it directly to the ‘Equally Safe’ team at the University, who will be in touch within 2 working days, at which point they will discuss options for further action and support, as well as providing any additional help with reporting the student may need. An email address is provided for the Equally Safe team, however on this page there is also a link to the Report + Support tool, where it is stipulated that a report of GBV through the tool will be received by the Equally Safe team. While this is positive as it ensures that reports of the same nature are not going to different teams, this information is not explicitly available on the Report + Support tool, as stated above, and it may be beneficial to include the team receiving the report on the Report + Support page.

3.4.2 HEIs with an Alternative Online Reporting Tool

On the reporting page of The University of Glasgow, there is a category on ‘what will happen when a report is submitted.’ As with other HEIs that included information on what to expect from the process, this is beneficial as it manages the expectations of reporting students and could mitigate some of the anxiety that may come from not knowing how the report will be received.

On the website, it states that if a named report is submitted, a trained member of staff will be in touch to discuss the ‘options or actions that are available’. It is also emphasised that the student has a choice on how the university gets in contact following a report, whether that be by phone or by email. Further, the university states that:

‘Should you request it, we do our best to find someone who shares your personal characteristics to contact you. For example, someone of the same sex or race.’

*If you decide to meet with a member of staff in person, you are welcome to bring another student or member of staff along with you.*¹¹⁷

To the credit of the University, this is a vital inclusion as it recognises the importance of placing the needs of the victim/survivor at the centre of proceedings, while also understanding that many different factors can impact a student who is reporting GBV. By providing the option to meet with someone of the same sex or race, the university is pursuing an intersectional approach towards support.

3.4.3 HEIs without a dedicated online report receipt mechanism

As UHI has no online reporting tool, and no option to make an anonymous report, the process by which they receive a named report has already been mentioned above. However, there are specific sections on their GBV webpage that mention making a formal report. In this, a clear distinction is made between making a disclosure of GBV to receive support and making a formal report. UHI lays out that ‘incidences of GBV are a breach of the Student Code of Conduct’, and therefore the behaviour of another UHI student can be reported for an internal investigation. A hyperlink to the Student Code of Conduct is provided, however after attempting to navigate to this page, the response was ‘404: page not found.’

Oversights like this are damning for HEIs when dealing with the potentially life changing and life lasting impact of GBV within the student community. While it is already a high demand to expect students to navigate multiple online pages and documents to establish whether behaviour can be reported, the failure to check whether these documents are accessible is poor.

It is mentioned that students are unable to request an internal investigation if the police are simultaneously investigating the same incident(s) but can still provide support. There is also the following statement:

¹¹⁷ University of Glasgow, ‘Reporting Form: Harassment, Bullying or Sexual Violence’, Available at: <<https://www.gla.ac.uk/myglasgow/students/safetyhealth/report/#guidanceforsubmittingareport>>

*'UHI Disciplinary Procedures will not be able to access the same powers as the police and court systems.'*¹¹⁸

This may be true, but without further information or clarification on what that means for students, it could be confusing or off-putting. Presumably, this is reference to, for example, investigatory discretion and powers that police have, and universities do not, however this is not immediately clear to students. Furthermore, this statement serves to draw a direct link between the university reporting procedure and the criminal justice system at the point of reporting, and without a further elaboration it may be seen to encourage students to seek recourse through the criminal justice system and abandon a report to the HEI altogether. Particularly as the statement falls under the section on 'support from UHI', it could be seen to imply that if students wish to have a full investigation, then they should report to the police, rather than the university.

¹¹⁸ University of the Highlands and Islands, 'Gender based and sexual violence: Support from UHI', Available at: <<https://www.uhi.ac.uk/en/students/support/support-to-keep-you-safe/gender-based-and-sexual-violence/support-from-uhi/>>

Chapter 3: Evaluation of the reporting processes

Having outlined the steps required to make an online report of GBV as a student at each of the 19 HEIs in Scotland, the following chapter will consider the overarching issues that may dissuade students from engaging in these processes. Following this, a few reasons why issues with the process itself would cause distress or a negative experience for a reporting student will be laid out. Figure 3 below represents how these factors act as a push and pull to discourage students from making any report (whether that be anonymous or named, formal or informal), which precludes HEIs from having the necessary information to successfully tackle student-to-student GBV within their community.

3.1 Informal reporting and a culture of resilience

Research undertaken by the EmilyTest charity found that the ‘close-knit, claustrophobic social climate of education supports enablement towards perpetration’.¹¹⁹ This, along with other factors, including fear of social or personal retaliation by the perpetrator, has been reported as why students may feel reluctant to formally report GBV to the HEI. Fear of retaliation encompasses a concern about another incident of GBV, in addition to a fear of being identified through information provided in a formal report. Statistically it is established that perpetrators of sexual violence are known to the victim/survivor, both within HEI and the criminal law system. Therefore, the idea of going through a formal reporting process that would potentially bring more distress and difficulty to the reporting student is a deterrent, which in turn can preclude the accessing of support or disciplinary action. Taking into account that formal complaint procedures are often seen as an unfavourable remedy to GBV, students may either turn to informal processes, or even avoid reporting altogether and take on the responsibility to keep others safe from the perpetrator(s) themselves.

The latter was considered by Towl and Humphreys, who identified a ‘culture of secrecy’ within HEIs, whereby formal reports of GBV are not made to an institution and therefore ‘kept secret’. Instead of reporting, students communicated that there were specific individuals within the student body who should be approached with caution or avoided altogether. Relatedly, Towl and Humphreys describe so-called whisper networks, which are used by women with the

¹¹⁹ Fiona Drouet and Poppy Gerrard-Abbott, 'EmilyTest: From Tragedy to Change' in Humphreys and Towl (n6)

intention of preventing future incidents of GBV without having to deal with potential traumatisation or lack of action following a formal report. They suggest that without active reformation of the complaint procedures at HEIs, thereby removing the need for so-called whisper networks, institutions are facilitating a dereliction responsibility to prevent GBV and provide a safe environment for students, instead allowing the burden to fall to victim/survivors to protect themselves and others.¹²⁰

While well-meaning, turning a blind eye to a culture of resilience cultivated through so-called whisper networks can also deny institutional responsibility for poor complaint procedures. Resilience discourses imply an assumption that the system will invite additional difficulties for the reporting parties and suggests that the subjects of GBV must steel themselves against that, rather than receive informed support from their HEI. Similar to the political use of the word ‘empowerment’, resilience implies that the individual must shoulder the consequences of GBV, without recognising the institutional role that HEIs play in producing and reproducing the power imbalance that made the violence possible in the first place.¹²¹

When students do come forward with a complaint of GBV, the disclosure can be made informally to an individual who is not well-placed to provide support or even take further action. Rather than approach the formal complaints procedure or advice centre within the HEI, students may disclose to a student union representative, an untrained staff member, or even via social media.¹²²

¹²⁰ Humphreys and Towl (n6)

¹²¹ While this thesis was developed for businesses, in recognising the relationship between employer culture and employee silence and voice, it can be seen reflected in the power dynamic of students and universities. The concept of institutional culture and how it impacts employee silence and voice is explored further in Shaji Joseph and Naithiki Shetty, 'An empirical study on the impact of employee voice and silence on destructive leadership and organizational culture' (2022) *AJBE* (Suppl 1) 85

Professor Barbara Biglia, principal investigator of the SeGRevUni Project, highlighted issues with resilience culture at universities in her presentation on the ‘Intersectionality of sexual and gender-related violence: Towards a Non-repolitizing intersectional approach to SeGRev’ at the GBV.EU conference in 2021.

Information available at: <https://unisafe-gbv.eu/events/ge-academy-unisafe-roundtable-on-addressing-gender-based-violence-and-sexual-harassment-in-academia-and-research-organisations/>

¹²² In a recent study of university responses to a complaint of GBV, it was identified that informal disclosures were made across an HEI, including through social media. When this occurred, interviewees reported that marketing departments handled the complaint instead of referring to specialist staff. This highlights a failure to communicate across departments, as well as a lack of awareness of how students communicate with their institution. See: Anna Bull and Erin Shannon, 'Higher Education After #MeToo: Institutional responses to reports of gender-based violence and harassment' (2023) University of York and the 1752 Group, 18

3.1.1 Student Unions

While student unions at Scottish Universities exist within the HEI community, they generally have their own policies and procedures as well as behavioural standards expected of their members and within their facilities. As such, they can be seen as simultaneously autonomous and intertwined with their HEI.¹²³ This creates issues, as students can make complaints of GBV to a student union rather than the HEI with the expectation that the outcomes will be the same or better than if a formal report was made. In the recent Ross Report at the University of Glasgow, students expressed that they felt that they would rather make a complaint through a student union as they ‘did not believe that the University would deal with their concerns, or that it would be too long or be too difficult’.¹²⁴

The Report identified that formal complaint procedures within the University are handled by full-time staff, who have experience and expertise relevant to their role. Indeed, complaints often flow through a number of stages, with the aim of ensuring that it is evaluated objectively by specialists in the role who have had training to assist with the task. Comparatively, complaints made through student unions are often managed by a student elected to a particular office of responsibility. These students are typically undergraduates, who have volunteered to this role for a one-year period and have not received training specific to receiving disclosures. The proximity these student office-bearers have to the student body is often the reason why they receive complaints of GBV, however it is also a reason that makes handling those complaints difficult. Not only is a year ‘in office’ a short time to become comfortable navigating the various complaint procedures and support systems, but often students receiving disclosures will be hearing allegations against their teammates, classmates, and friends. Just as the reliance on whisper networks unfairly allows the burden of care to fall away from the HEI itself, so too does the over-reliance on student officers to handle complaints of GBV.

Not only are the individuals in these positions ill-equipped to undertake the role of managing disclosures, but so too are the union policies themselves. Student unions vary across Scotland, with some having their own premises, some having memberships available, and some catering

¹²³ Ross (n81)

¹²⁴ *Ibid*

to a significant percentage of the student population. For that reason, their policies and procedures vary hugely. It has been established in recent studies that institutional responses to complaints of GBV are inconsistently effective across the sector,¹²⁵ however this variation in procedure and processes is further pronounced in student unions where focus is less concentrated and prevalence data is less available. While unions may be able to assure students complaints of GBV are taken seriously by those who receive them, it is likely that students making a complaint will have unrealistic expectations of what a union can do.¹²⁶ In most, if not all cases, unions can only enact repercussions intrinsic to their union such as exclusion from events, teams, or premises. Without going through the formal reporting procedure provided by the HEI itself, it is unlikely that sanctions pertaining to academic, residential, or external social settings can be given.

Making a complaint to a student union can be appealing, as students may feel more comfortable talking to a peer rather than a member of staff. In this way, there is a perception that this procedure is more informal and often quicker as there are fewer stages to go through. However, the impact of this is that student officers are put in high-risk positions where they are responsible for investigating allegations about their peers while also managing the potential social repercussions of being involved in the process and their studies.

While it is useful to have alternative reporting procedures available at HEIs, it is vital that the limitations of these are made more obvious to any student who may make a report. The procedures are not the same, nor are they intended to generate the same outcomes.

3.1.2 Untrained Staff and Casual Contracts

For many of the same reasons, students may feel more comfortable making a disclosure of GBV to a member of staff not connected to the formal complaint procedure. These are often staff members who have built up a relationship with students through classes, extended pieces of work, or pastoral roles such as an advisor of studies. While some of these staff members may have received training on responding to a complaint of GBV, many have not, but nonetheless undertake the task of supporting the student in addition to their academic role. Relatedly, the members of staff who may have high contact with students are often on ‘casual

¹²⁵ Bull and Sharon (n122)

¹²⁶ Ross (n81)

contracts’ – graduate teaching assistants (GTAs), tutors, lab demonstrators, and research assistants (RAs). One of the issues identified in the research undertaken by EmilyTest was that HEIs contain many of these casual workers, who are often hard to reach in surveys and are therefore not captured in data on how disclosures are received. In the same way as with student union representatives, casual workers are seen as separate to the wider HEI and therefore, more appealing to make a disclosure to. However, these roles are rarely acknowledged as having pastoral elements, leading to a lack of training provision and financial compensation for the time taken to manage such disclosures on top of their academic responsibilities.

Even when students consider making an informal complaint to members of staff who have explicitly pastoral roles, there are issues that may dissuade students; the EmilyTest identified that casual contracts within student support roles can lead to inconsistencies in the level of support provided, as well as the potential for changing staff during the course of a complaint.¹²⁷ Changing staff can mean that a student has to recount their complaint once more, risking re-traumatisation and a recurrence of consequences including a toll on mental health or loss of faith in the system.

3.2 Issues with the formal reporting procedure

Having shown the issues with informal reporting procedures, focus will now be turned to challenges facing students if (and when) they choose to make a complaint to an HEI’s formal reporting procedure. Much of the research into GBV in higher and further education environments highlights the specific considerations that students have to make before making a formal complaint, describing it as a ‘high-risk, low-reward calculation’ owing to the way in which HEIs intertwine with a student’s social, financial, residential, occupational, and educational life.¹²⁸ These will be addressed later in this chapter.

This section will split the issues integral to formal complaint procedures into two categories: socio-cultural and procedural. The socio-cultural issues are those which arise before a complaint is made and pertains to how complaint procedures are perceived by university communities; the difference between rhetoric and reality of complaints, the lack of

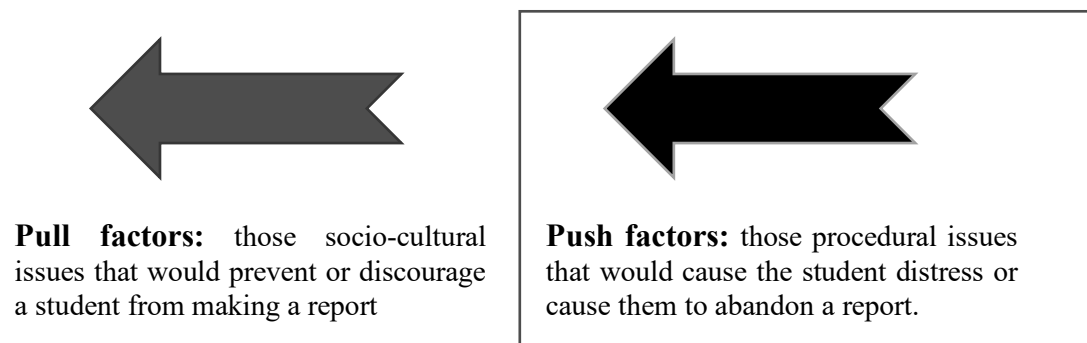
¹²⁷ EmilyTest, ‘Gender-based Violence (GBV) Charter for Universities and Colleges’ (2021). Information about the charter is available at: < https://www.emilytest.org/charter-about/#rslider_1>

¹²⁸ Drouet and Gerrard-Abbott (n119)

understanding about how the system works, and the reported mistrust in HEI systems. The procedural issues are those that arise once a complaint has been made, and considers the harmful impact of redisclosures, institutional focus on disciplinary outcomes over reporting party welfare, and the increasingly adversarial nature of processes described as ‘criminal justice drift’.

The figure below illustrates how these issues can act as pull and push factors, distressing and discouraging students from accessing the reporting process and subsequent support that may be available to them.

Figure 1-3: Formal Reporting Procedures



In the course of this research there has been media coverage of GBV in HEIs across the UK, focussing on a number of different areas, from a failure to properly investigate claims of sexual abuse in a breach of the HEIs duty of care, ¹²⁹ to student-led movements to improve their experiences of the reporting procedures.¹³⁰ Addressing each of these, and the potential changes the reports may make to the sector, has not been feasible in this research project, as this would involve new analysis every month or so. Further, many of these media reports have addressed specific areas covered in this research in a level of detail that would be incompatible with the general tone of this thesis, which instead has aimed to give an overview of reporting process in Scotland.

¹²⁹ Feder and McCamish v Royal Welsh College of Music and Drama (Cases Nos: G67YJ147 and G67YJ153) October 2023

¹³⁰ Mary McCool, ‘Edinburgh University failing over sexual misconduct complaints – students’ (*BBC News* 2023) Available at: <<https://www.bbc.co.uk/news/uk-scotland-edinburgh-east-fife-67196745>>

That being said, a very recent report from the BBC has highlighted student opinions of the reporting procedure at Edinburgh University, which they described as ‘awful’, and which ‘enables sexual misconduct among students and staff’. To reiterate, the focus of this research is not on staff student misconduct. However, attention is drawn here to this article as it demonstrates many of the same negative experiences which will be discussed below in relation to issues with formal complaint procedures, such as feeling isolated and alone, uncertainty, and importantly not being taken seriously – which was established in Chapter 1 as a concern for students.

3.2.1 Expectations vs Reality

The first half of this section will contend with those socio-cultural issues around formal processes that inform whether a student makes a complaint or not. While research shows that a considerable number of students experience GBV – owing to the prevalence statistics mentioned prior – very few make a report. While some of these students may have interacted with the formal process, it can be expected that most students have not and therefore their knowledge, opinions, and expectations are informed instead by university campaigns, the experiences of other students, and assumptions based on experiences elsewhere such as in schools or in the workplace.

One such way in which students are made aware of HEI approaches to GBV is through media and public information made available across campuses and social media; many universities heavily publicise that violence against students is unacceptable, often investing considerable funds into campaigns designed to show this – for example, it is common to see the language of ‘zero-tolerance’ across venues, unions, and bars at Scottish HEIs. For example, Figure 4 below shows the ‘Pledge Badge’ published on Dundee University’s Student Union (DUSA) website and social media.



Figure 2-3. Dundee University Student Association’s ‘pledge’ to having a zero-tolerance approach towards harassment and discrimination.

Seeing images and communications like this may lead students to expect that any complaints of GBV will be dealt with effectively and in a manner reflective of the policy. Of the 19 HEIs in Scotland, almost all mention a zero-tolerance approach to GBV, however, very few describe what this entails. Some universities link their zero-tolerance policy to their reporting procedures, highlighting that having a firm stance towards GBV is contingent upon having readily available avenues for students to report incidents of violence and harassment; when RGU launched the Report + Support tool in 2018, Universities Scotland explicitly made that link by saying, ‘It’s really powerful to send a message of zero-tolerance in the way that Robert Gordon University has done in its Report + Support initiative.’¹³¹

The University St Andrew’s have a ‘Definition of Zero-Tolerance’ page on their website under the information on formal reporting, which reads as follows:

‘The University is committed to a zero-tolerance approach to bullying, harassment, discrimination or victimisation of any kind. Such behaviour is contrary to the values and ideals of our shared community which requires a commitment to treat everyone with dignity, courtesy, and respect. Any allegation of bullying, harassment, discrimination or victimisation will be looked into promptly, efficiently and sensitively by the appropriate department (Human Resources (HR)/Student Services/Student Conduct), and if appropriate, disciplinary action will be taken. In the case of anonymous reports where investigation may not be possible or feasible, systemic options/campaigns will be considered where appropriate.’¹³²

Most make some reference to preventing sexual violence and misconduct on campus, and protecting student safety, but the specifics are not outlined. This is seen in the text accompanying figure on DUSA’s social media:

‘Our Zero-Tolerance policy is our pledge to stand against any and all forms of harassment and discrimination. This includes any sexual harassment, racism, bullying, threatening or intimidating behaviour. All those who violate the policy face severe disciplinary action. If you have witnessed anything you believe constitutes a breach of this, please contact us now.’

¹³¹ Stalker (n86)

¹³² Report + Support, ‘Zero tolerance definition’ (2020) Available at: <https://reportandsupport.st-andrews.ac.uk/support/zero-tolerance-definition>

The contact information given is the general advice email, with no indication on that webpage as to who accesses that inbox or if and when a response can be expected, which undermines the care taken to make this policy known to students.

The 2016 *Changing the Culture* report links a zero-tolerance approach to clear expectations of behaviours as well as robust policies and wider culture change. The thing missing from many universities' websites and campaigns on a 'zero-tolerance' approach is the outlining of what behaviours are not tolerated and will lead to discipline procedures. While these behaviours may be outlined in Student Codes of Conduct, this is often not on the same webpage as the statement of zero-tolerance, meaning that students are either left to interpret themselves or must proactively follow up with personal research. This creates the potential for misinterpretation or lack of awareness about unacceptable behaviours.

The outcome is that the expected standard of behaviour is not obvious, resulting in a discord between policy and the delivered process. This 'implementation gap' is seen in a number of areas as well as the zero-tolerance campaigns, most recently highlighted in the HEI context by the UniSAFE survey of 16 institutions in Europe. In this study, the gaps between 'paper and practice' were grouped into 7 subsections, concerning actors, users, institutions, procedures, training, communication and awareness, and frameworks and the types of GBV covered.¹³³ While this survey did not involve any Scottish HEIs, many of the issues can be seen across the sector here; for example, gaps could arise from a newly implemented policy not yet being fully developed.¹³⁴ The recent Ross Report conducted at the University of Glasgow provided an exemplar case of an implantation gap of this sort, concerning the introduction of two new roles – an Investigating Officer and a Student Liaison Officer – to manage reports of GBV.¹³⁵ Despite being a substantial change to the process of student conduct at the University, at the time of writing the report, Morag Ross KC highlighted that when this new Code of Conduct was enacted there had been no training for staff who may act as Investigating Officer, and no headway on identifying a member of staff who could be the Student Liaison Officer. As such, students reading the Code of Conduct in advance of making a complaint of GBV or for

¹³³ Beatriz Ranea-Triviño and others, 'Unisafe D5.2: Report on Case Studies on the Effects and Consequences of Institutional Responses to Gender-based Violence Along the 7ps in Research Performing Organisations' (*Zenodo* 2022)

¹³⁴ *Ibid* 80

¹³⁵ Ross (n81) 72

information about the processes at the University, would have an incorrect perception of what to expect from the staffing and procedure involved in making a formal report. The outcome is therefore that the University, at first glance, appears to be offering a robust and well-supported process, but in reality, has unfilled positions and does not provide what is described.

This is just one example, from the biggest university in Scotland, but the picture is consistent across many.

3.2.3 Systematic reinforcing of power imbalances – compounding the issue

Negative experiences of formal complaints procedures in HEIs are often reflective of women's experiences of reporting GBV to the police.¹³⁶ If it is difficult for the reporting students to know who to go to, if they have to provide evidence, if the process is convoluted, if the student is required to be self-reliant and present themselves in such a way so as to seem credible – the formal complaint procedure itself becomes harmful to the reporting student, mirroring the wider power dynamics that exist between men and women, and hinder women's access to justice. These issues reinforce a culture of disbelieving women, making it harder for women to come forward where generally women's experiences are treated as not the norm, and ultimately these types of harmful behaviours are therefore facilitated by the issues surrounding the formal system. Further, this is exacerbated if one individual student has to interact with multiple people as this puts the onus for the success of the complaint on to the student themselves, again enhancing the 'culture of resilience' and creating a dereliction of responsibility by the central university systems.

As negative experiences are shared among the student body, and publicised more widely,¹³⁷ trust is eroded in the procedures, compounding the reluctance to access formal complaint processes further. This then further isolates and alienates the women who have experienced GBV, further jeopardising their education, wellbeing, and health. As such, failings in the

¹³⁶ As outlined in Chapter 1.

¹³⁷ See, for example: Mia Squire, 'New damning Glasgow Uni report lays bare dysfunctional sexual violence reporting system - 'Serious mistakes' have been made in handling reports of gender based violence' (2022) Available at: <https://thetab.com/uk/glasgow/2022/12/16/new-damming-glasgow-uni-report-lays-bare-dysfunctional-sexual-violence-reporting-system-26047>, Hazel Martin 'Glasgow University students 'let down' over sexual harassment reports' (2021), Available at: <https://www.bbc.co.uk/news/uk-scotland-57804932>

management of a complaint following GBV can produce and reproduce the inequality that made the violence possible in the first place.

3.2.4 Lack of knowledge of how procedures operate

It has been discussed that students often mistake the purpose of student union complaint procedures, expecting them to have the same powers and outcomes as central university processes. The more general takeaway from this, is that students don't often know how procedures operate. Having an unclear view on who will receive a complaint, how many people will see it, and what steps will be taken following the submission of a formal complaint are all worries that muddy the water for students who have experienced GBV. As established in the previous chapter, one of the main reasons that students cite as why they did not make a formal complaint after experiencing GBV is that they perceived it not to be 'serious enough'. However, when each of the Scottish HEI's reporting processes were examined, many included reassurances that the process could be the first step in accessing support, and that making an action under the disciplinary procedure was not necessary.

It may be true that if students were more aware of the fact that reports – both named and unnamed – could be made without the need to initiate a discipline procedure, they may be inclined to report those incidents perceived as 'less serious'.

3.3 Procedural issues and 'criminal justice drift'

If a student is not dissuaded by these socio-cultural issues and negative perceptions of the formal complaints process, they may advance to making a formal named complaint. However, there are a number of issues intrinsic to the process itself that contribute to the overall problems with GBV reporting at Scottish HEIs. These are largely due to the way in which the processes are set up. Cowan and Munro argued that this is because universities are increasingly emulating complaint procedures on criminal justice models that centre around discipline rather than alternative models which allow the victim/survivor of GBV to lead on what they perceive fair justice to be. This lack of a trauma-informed, survivor-centred approach results in reporting students being side lined in procedures that greatly concern them, often having to make multiple disclosures, lacking agency, and having to endure a lack of appropriate interventions alongside adversarial and combative interactions.

3.3.1 Redislosures

Reporting parties often have to make multiple disclosures in the course of making a formal complaint. This can involve staff members across multiple areas of the university, from an initial disclosure to an academic member of staff, following which information may have to be repeated to pastoral staff, support staff, and investigating officers.

While many of the reporting processes listed above have a statement on confidentiality, expressing that the report will only be seen by the specialist trained members of staff, this assumes that the reporting tool is the first place that students go after experiencing GBV from another student. It indicates a false assurance that students may only have to disclose the information to the specified members of staff, and fails to recognise that students may have already informally discussed the incident(s) with an academic member of staff such as a class tutor, a residential advisor, or student union staff member, and may have to discuss the matter again with staff if they have made a named report.

Like many of the issues around HEI reporting processes, the crux of the matter is that HEI's written procedures do not accurately represent the lived experience of students and the expectations and reality of reporting GBV are often quite different.

3.3.2 Side lining the reporting party

Once a disciplinary procedure is started, the reporting party is often treated as though their role has concluded. The procedure then often focusses on the reported party and potential disciplinary outcomes of the investigation, rather than focussing on the differential needs of victim/survivors. It could be argued that in doing so, the HEIs separate the reporting party from the disciplinary process; the action taken by the university following a report of GBV can create the perception that the dispute is between the university and the named party, rather than arising from the reporting party's disclosure. Indeed, often students report that they feel once their complaint is made, they no longer have any 'rights' in the process – to see the report, to see witnesses, to know what steps are being taken to protect their wellbeing.

Anna Bull of the 1752 Group criticised UK disciplinary procedures for these issues, including the HEI's focus on the aggressor, and centring of disciplinary outcomes over support and

wellbeing of the reporting party. A disproportionate focus on the wellbeing of the reported student, who is often male, is described as ‘HIMpathy’ – a term coined by Kate Manne that refers to the sympathy shown to male perpetrators of GBV.¹³⁸

As shown, recent media reports have made mention of long waiting times between making an initial report and receiving an update on the outcome. Considering the short cycle of an undergraduate degree in Scotland it is foreseeable that students may graduate, or go abroad as part of their studies before they are made aware of the outcome of their report. While a robust process is expected to take care in reaching a conclusion, students often report that they are not told of the status of their report as it develops, compounding feelings that the institution ‘doesn’t care’, or they have pushed to the side.

3.3.3 Inadequate interventions

In the primary data provided in this research, many HEIs mention that students can ‘access support’ at any time throughout the reporting process, and links to support services across the institution are often made available on reporting pages. The following section identifies the ways in which crucial elements of support are often lacking in the responses of HEIs. While these options for support may be available to students upon request, they are rarely communicated as part of GBV support information on the main HEI webpages, and for that reason they have been highlighted here as ‘gaps’.

3.3.3.1 Maintaining intersectionality

Intersectionality is often used as a badge that is retroactively stamped on policies, but not fully implemented. The depoliticising of intersectionality involves the recognition of power relations that impact students within the student community and wider society. It does not serve victim/survivors to perceive their intersecting identities as being surface layer, pedalling notions such as ‘we are all different so we are all the same’.¹³⁹ While anyone can experience GBV, the experience of this violence is not uniform and approaching intersectionality like a layer implies that it can be removed, and the student can be seen in isolation from their identities. It is vital that the whole picture of lived experience is encompassed in HEI responses,

¹³⁸ Kate Manne, 'Down Girl: The Logic of Misogyny' (OUP 2017) 197

¹³⁹ Biglia (n121)

and the intersecting elements are understood for how they work together to inform the needs of the individual.

In the previous section, it was shown that many HEIs in Scotland include a question on whether students feel their experience of GBV was motivated by a factor such as race, sexuality, gender, disability, age etc., however beyond this, there is little by way of expressed acknowledgement that the student experience of GBV will vary depending on the identity of the reporting student.

Having a lack of regard for these factors may mean that students from minority ethnic communities, students with a disability, LGBTQ+ students, and transgender students may feel *even more* alienated from the reporting process as they have no reason to believe that experience of being in a marginalised community will be taken into account.

Many HEIs have dedicated pages for supporting marginalised communities, such as dedicated pages for LGBTQ+ support, disability support services, and information on anti-racist action taking place at their institution. However, this rarely is mentioned or connected to the HEI pages on GBV, and how marginalised identities may experience this violence differently. UHI has an obvious and highlighted link to their 'NEW LGBTQ+ Resources and Support' with the accompanying text reading:

*'Did you know that GBV can include harassment related to sexual orientation or gender identity? We want to improve our services and support to LGBTQ+ staff and students. Click the Pride Flag to discover our new LGBTQ+ webpages and support hub.'*¹⁴⁰

While it is positive to see UHI acknowledging intersectionality in this way on their website, clicking on the link only leads to the general LGBTQ+ support pages, with no specific mention of GBV and sexual orientation. As such, it merely pays lip service towards meaningful intersectionality, and falls short of providing students with support for GBV that is truly intersectional.

¹⁴⁰ University of the Highlands and Islands, 'NEW LGBTQ+ Resources and Support: Gender Based and Sexual Violence' <<https://www.uhi.ac.uk/en/students/support/support-to-keep-you-safe/gender-based-and-sexual-violence/>>

3.3.3.2 Student accommodation

The high profile and tragic story of Emily Drouet highlighted students living in student accommodation may have their experience of GBV worsened by their living situation. For Emily, her abuser was able to commit violence against her in her place of residence, which he had access to as a fellow first year in the same student halls. It is vital that students in a similar position are provided with support on options for alternative residence.

Again, it is difficult to assess what students would be provided with regards to alternative accommodation as this would largely depend on the context and individual institution. However, the EmilyTest specifically identify accommodation arrangements as part of their minimum standards relating to their fifth principle 'Safe & Effective'. In this, accommodation is mentioned in two separate minimum standards. The first requires HEIs have trauma-informed accommodation available for students to request – for example, accommodations with ensuite bathrooms for students who are unable to share a bathroom following an incident of GBV. The second, relatedly, requires that HEIs have emergency accommodation arrangements or funds available for students to access should they require temporary accommodation following GBV. This is vital for those students who report GBV as occurring within their place of residence or reporting an individual who may have access to their home i.e., in the same building or block of student halls.

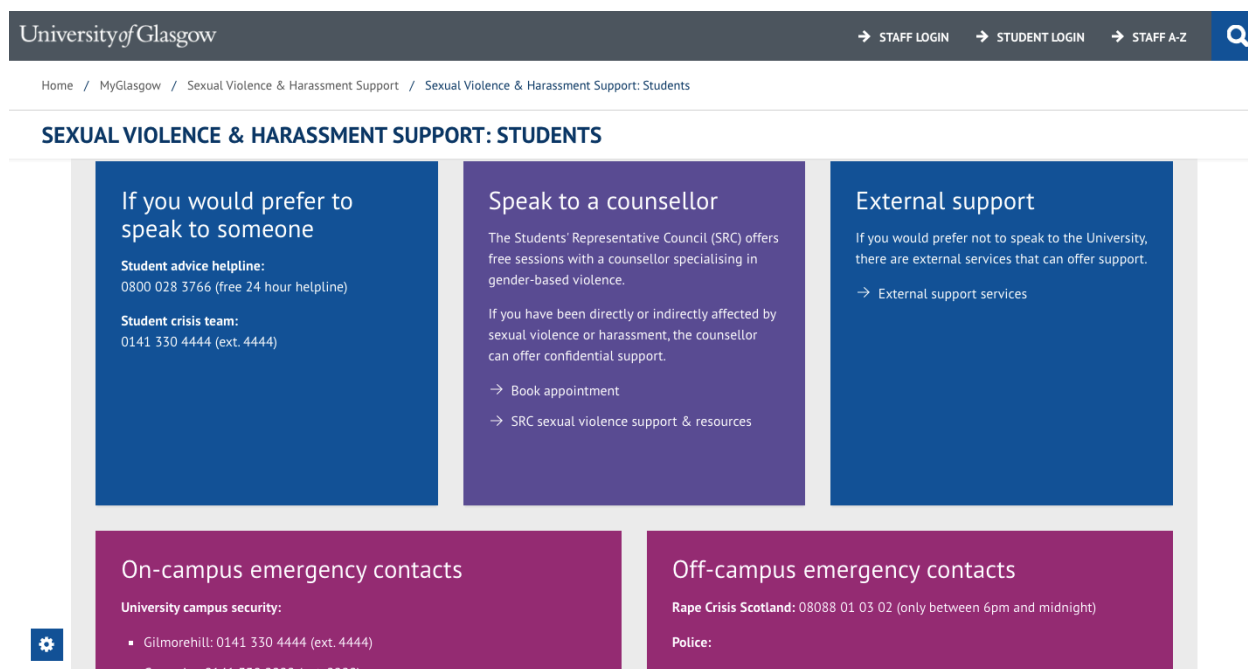
By highlighting the centrality of living arrangements in the perpetuation of GBV, HEIs can recognise the impact that the sites of violence have on individuals. Failing to do so fails to protect students from further harm, especially if the event has been reported, as was the case with Emily Drouet.

3.3.3.3 Financial repercussions

Considerations of the impact GBV can have on the financial security of students is often omitted from HEI communications on support available to students. It is common to see

support pages pointing to external resources such as Rape Crisis Scotland or internal facilities such as the counselling service, exemplified by the University of Glasgow in Figure 5.¹⁴¹

Figure 3-3. The University of Glasgow support page for students, showing no mention on financial aid or alternative accommodation arrangements.



National guidance provided for all Scottish HEIs states that if students withdraw from their studies, they will no longer receive their loan from the Students Awards Agency for Scotland (SAAS), which provides funds to students to assist with living costs such as rent and food.¹⁴² It is also stated that students who suspend or withdraw from their students,

*'Should also contact [their] college or university to find out if [they] have to pay back any bursaries or grants.'*¹⁴³

¹⁴¹ As seen on a number of Report + Support webpages, as well as the support pages of other HEIs.

¹⁴² MyScotGov, 'Leaving Your Course', Available at: <<https://www.mygov.scot/change-course-leave-university>>

¹⁴³ *Ibid*

Further, the SAAS website states that in the event that students receive an ‘approved absence’ cited as either being medical or care-related, they may continue to receive funding for the remainder of that academic year, but cannot access such support more than once.¹⁴⁴

Importantly, financial abuse is recognised as a form of intimate partner violence, and therefore it should be considered as part of HEI responses to GBV. Many if not all HEIs will have grants in place for students experiencing unforeseen hardship, however this is rarely seen on GBV support pages, as shown above.

3.3.3.4 Alternative educational arrangements

When students make a named report and opt to initiate a formal disciplinary process, there may be the expectation that doing so will result in immediate action against the reported student, especially considering the ‘pull’ issues already overcome to make such a report. For example, the removal of this student from classes, shared learning environments, or even the whole campus itself. It is within the universities power to do so, however this sort of action strikes a difficult balance between protecting the wellbeing of the student community and the reporting student, while also respecting the reported student who may be in distress with their involvement in a formal disciplinary process.

This can cause additional complications when the reported student is also involved in a police investigation. This was the case for Ellie Wilson who reported her abuser to the police, at which point he was suspended from the HEI they both attended. However, in this time, the reported student transferred to another Scottish HEI and was able to return to campus and normal learning arrangements. As a result, Ellie Wilson has raised the issue with the Scottish parliament, advocating for mandatory online classes for students under investigation for GBV.¹⁴⁵

¹⁴⁴ Student Awards Agency Scotland, ‘Funding Guide: Approved Absence’, Available at <<https://www.saas.gov.uk/guides/funding-guide/approved-absence>>

¹⁴⁵ Scottish Government, ‘Petition 2022: Introduce national safeguarding guidance on how higher education institutions should handle cases of sexual misconduct’ Available at <<https://petitions.parliament.scot/petitions/PE2022>>

3.3.4 Adversarial and litigious processes – Criminal Justice Drift

An increasingly prevailing recognition is that HEI disciplinary procedures were initially designed to address student academic misconduct, and therefore applying the same system to conduct matters such as GBV results in serious shortcomings.¹⁴⁶ For example, Scotland's largest HEI (The University of Glasgow) used the same procedure for disciplinary proceedings following academic and non-academic misconduct until the academic year 2021/22. This is one way that HEIs are not appropriately addressing GBV, however another is that HEIs are seeking to address this shortcoming and lack of GBV-appropriate procedure by mirroring elements of the criminal justice system. Cowan and Munro acknowledge that this is a foreseeable action taken by HEIs,

*'In the midst of much anxiety over the adequacy of existing processes, a lack of detailed guidance on alternative mechanisms to be applied, and the weighty ramifications for reporting and respondent parties, as well as for the reputation of the university.'*¹⁴⁷

However, emulating criminal proceedings not only fails to recognise the unique experiences of students who experience GBV in HEI, but also inherits many of the much-reported criticisms levelled at the criminal justice system's management of victim/survivors of GBV. Investigative procedures themselves can contribute an adversarial environment that discourages students from making a complaint. For one, universities often use 'borrowed' language from the criminal justice system – such as evidence, representation, and hearing among others. These words are seen from the initial point of reporting – i.e., some HEIs observed in this research asked students making a report to upload or describe any 'evidence' they had to support their report.

The issue of legal representation within university disciplinary proceedings was addressed in *AV v. University of XYZ*, where the court noted that routinely inviting legal representation into HEI proceedings would result in a 'process of litigation'.¹⁴⁸ That would negatively bring with it further delays, expenses, as well as potential distress from intimidation for the reporting

¹⁴⁶ As identified in the Ross Report, (n81) s 7.1.9

¹⁴⁷ Cowan and Munro (n9) 324

¹⁴⁸ (n92)

student that may dissuade a report from being completed. Cowan and Munro highlighted that allowing or encouraging the presence of a lawyer fails to recognise the broader context in which the underreporting of GBV is related to the victim/survivor's apprehension about interacting with adversarial legal representation.

The University of Glasgow only recently changed their policy from stating that students had a right to be 'represented' by any person. Along with the aforementioned change to assessing academic and non-academic misconduct separately, the updated Code of Student Conduct changed the language of the provision to state that students could be 'accompanied' by someone from an exhaustive list of relations.¹⁴⁹ The accompanying person may, with advanced permission, speak on behalf of the student, but reasons must be provided for this. This move by the University of Glasgow highlights that the HEI has recognised the issue with the previous formulation of their Code of Conduct and moved *away* from an adversarial tone that implies students making a report will be faced with formal representation from the reported party.

Similarly, it is vital that HEIs ensure they are using the correct and appropriate burden of proof. While the burden of proof for HEI procedures is on the balance of probabilities, the similarities in language and framework to the criminal system may influence the perception that the criminal standard is the default. In general, HEIs in the UK are expected to follow the principle of balance of probabilities when evaluating evidence in these cases, whereas GBV offences in the criminal system (addressed in Chapter 1) would be assessed to determine whether there is guilt 'beyond a reasonable doubt'. The evidential standard for HEIs was confirmed by the UUK/Pinsent Masons guidance published in 2016. Despite this, HEIs have increasingly been seen to turn to external investigators for disciplinary proceedings involving GBV, including those who have experience in similar fact scenarios within the police or criminal justice system. While this may be seen as a positive move to invite independent scrutiny to the HEI process, this again risks the emulation of a professionalised disciplinary process that is more similar to the criminal justice system than other non-legal complaint processes.

¹⁴⁹ Family members, a fellow student or friend, an advisor from the Student Representative Council's Advice Centre, or a member of university staff. Contained within the University of Glasgow Code of Student Conduct, Regulation 33.46. Available at: <<https://www.gla.ac.uk/myglasgow/apg/policies/uniregs/regulations2022-23/feesandgeneral/studentssupportandconductmatters/reg33/>>

Mandating a differing standard of proof in HEIs for complaints of GBV is vital, as it acknowledges the unique nature of HEI disciplinary processes and the focus on ensuring a safe and supportive campus environment; however, if HEIs mirror the criminal justice system elsewhere, in the use of legal representation, and the borrowing of litigious language, students may be inclined to believe that the standards of evidence at their institution are equal to that within the courts. Further, the use of independent investigators may compound issues around drifting evidential standards, as individuals who are well-versed in the criminal justice system default to familiar practices, or are ‘embedded through ‘muscle memory’, or considered ‘better’, by those initiated in them’.¹⁵⁰

3.3.5 Cross-institutional knowledge sharing

3.3.5.1 Disclosures of GBV Investigation or ongoing criminal trial

The student convicted of assaulting Emily Drouet in 2017, Angus Milligan, was sentenced to 12 months’ supervision and 180 hours of unpaid work (later reduced to 120) after pleading guilty to assault to injury, threatening or abusive behaviour, and the sending of offensive or menacing messages.¹⁵¹ Along with this, he was expelled from the University of Aberdeen, where he had been studying and where he had met, harassed, and assaulted Emily. The campaign of abuse in this case took place in and around the university, with evidenced incidents in their halls of residence and on student nights out. Despite this, Milligan began a new course of study at Oxford Brookes University in England, reportedly living in student halls for at least a year of his degree.

By admitting Milligan to Oxford Brookes, the university enabled him to re-enter the environment in which he abused Emily Drouet, and while it is standard practice for universities to require students to disclose criminal convictions at the time of enrolment, it is not clear if Oxford Brookes took any further steps to safeguard the students at their university. This is where a red-flag system, or centralised information portal could be effective at ensuring members of staff were aware of prior transgressions that could potentially harm current

¹⁵⁰ Cowan and Munro (n9) 325

¹⁵¹ Unreported, Aberdeen Sherriff Court (2019)

students and ensure that if any incidents did occur following disciplinary action at another HEI, responses were taken quickly and appropriately.¹⁵²

At the time of writing, a campaign was underway in Scotland that sought to make it mandatory for all Scottish HEIs to gather data on relevant unspent criminal convictions as well as certain criminal charges, including those related to GBV in the form of violence and sexual violence. As of November 2023, this approach was accepted for all HEIs in Scotland, marking a positive step towards a unified and consistent approach across the sector. Despite the commitment to gather this information, no guidance had yet been developed that would support HEIs in implementing this or communicating this requirement to students. It will be vital over the next stage, this guidance is crafted in a way that ensures the commitment does not become virtue signalling without any meaningful impact to the welfare of students in Scotland.¹⁵³

¹⁵² EmilyTest have identified a red-flag system as one way that HEIs can support students in a survivor-centred and trauma-informed way. For more, see Chapter 4.3

¹⁵³ For more on this, see the Scottish Universities statement online here: <<https://www.universities-scotland.ac.uk/gbvmr/>>, or the Scottish Government petition by Ellie Wilson to ‘introduce national safeguarding guidance on how higher education institutions should handle cases of sexual misconduct Available at <<https://petitions.parliament.scot/petitions/PE2022>>

Chapter 4: Conclusion

Having established the context of GBV in HEI, outlined the contemporary primary data from Scottish HEIs, and highlighted a number of issues facing the sector, conclusions will be made as to how these evaluations could be used to improve the student experience of reporting GBV. The key point made in this project is that consistency across Scottish HEIs is lacking, and as a result, students are not receiving the same standard of support when they seek to make a report of GBV online. As such, four points will be made that seek to suggest how consistency could be achieved, through funding, the establishment of a minimum standard of good practice, the centralisation of procedures, the inclusion of students as key stakeholders in the process.

4.1 Consistency

With the primary data outlined in this thesis, it has been possible to see that there are still a number of differences across the country when it comes to how HEIs both collect and respond to complaints of GBV. By failing to provide a coherent system which is uniform regardless of the HEI in Scotland, institutions are unwittingly creating a lottery by which students are subject to varying levels of support and a varying number of options for reporting depending on where they choose to undertake their higher education. This is in no way an acceptable situation for a country that has identified VAWG as a key issue to tackle in policy, education, and wider society. With some HEIs engaging with current literature on how to create a comprehensive approach, and others relying on the lowest level of required duty (rising from public sector equality duties, or guidance outlined by the SPSO), students are not uniformly receiving a high standard of care. The differing levels of support provided to students not only highlights the gaps in the sectors but highlights that more could be done in the way of cross-institutional knowledge sharing. In the Republic of Ireland, the Irish Government provides funding to best practice campaigns and tools across the sector, in order to share those resources with other HEIs.¹⁵⁴ By partnering with successful projects at Irish HEIs, the Government of Ireland not

¹⁵⁴ For example, the ‘Bystander Intervention Workshop’ which began at the University of Cork and was taken on by other institutions, such as Dublin City College and University College Dublin. See: <https://www.ucc.ie/en/bystander/> Also, the ActiveConsent Workshop which began at Galway University and now has an extensive online ‘Consent Hub’ with learning models, campaign ideas, training packs and a number of informational resources, available at <https://www.consenthub.ie/>.

only enabled the expansion of effective tools across the country, but also provides uniformity and standardisation of support for students in Ireland.

In order to tackle this, it would be recommended that leaders from all 19 HEIs agree on a uniform system for collecting reports – whether that be Report + Support or another alternative – and ensure this is made available to all institutions, regardless of size, status, or funding. In order to do so, a more in-depth analysis of the specific challenges facing each HEI should be undertaken. This could take into account the ‘type’ of institution and the unique needs of their student community, in order to ascertain how each HEI, no matter their size or status, can provide a standardised high level of care to students.

As mentioned further in the final conclusion, this may be aided by further empirical research with the teams within each HEI who design, implement, and manage HEI responses to GBV reports.

4.2 Funding

Related to the previous observation that the sector would benefit from a unified approach, it would be suggested that to avoid funding constraints on smaller institutions, the undertaking of a Report + Support system is subsidized or funded by the Scottish Government.¹⁵⁵ Elsewhere, centrally funded national projects to tackle GBV have proven effective at sharing best practice. For example, the Irish Government provided funding to embed successful programmes and initiatives from individual HEIs across the national curriculum.¹⁵⁶ Comparatively, the Scottish model is more piecemeal, which leads to inconsistency. While some HEIs may introduce effective campaigns or programmes, students across the country at smaller HEIs will not be able to reap the benefits of this if their institution cannot afford to prioritise the implementation of a similar programme or do not have the staff to do so.

In the US, the Campus Sexual Violence Elimination Act (SaVE Act) requires colleges and universities that receive federal funding to adopt policies and procedures for responding to sexual violence, including providing survivor-centred support, conducting investigations, and

¹⁵⁵ As was done with the Fearless Glasgow funding awarded to Glasgow HEIs (n96).

¹⁵⁶ Examples include University College, Cork’s Bystander Intervention programme, and Galway University’s ActiveConsent Workshops.

implementing prevention programs.¹⁵⁷ It may be that Scotland could benefit from a similar requirement. While the *Equally Safe in Higher Education* strategy is centrally funded, it does not require that HEIs have any specific policies or procedures in place in order to access the guidance, and therefore enables the discrepancy of support outlined in this research.

4.3 Minimum Standards – *The EmilyTest Charter*

Achieving consistency across the sector is not a straightforward task, and it is likely that it will take the collaborative efforts of multiple organisations, institutions, and agencies to do so. One such way that may help is through the subsidising of a national tool (whether that be Report + Support or another), as mentioned above. Another way that uniformity could be achieved is through the introduction of a ‘minimum standard’ to which all HEIs must adhere to, that encapsulates the most pressing needs of students using the service and responds to the literature on comprehensive approaches.

The work of the EmilyTest Charity centres around inviting universities and colleges to sign up to the ‘Gender-based Violence Charter’, which lays out a series of evidence-based standards described as the minimum that should be provided to students who experience GBV. Having identified a lack of uniformity and independent scrutiny across the HEI sector, the charity focussed on establishing a framework through which HEIs (and FEIs) could work towards effective prevention, intervention, and support for students who experience GBV. The EmilyTest Charter was funded by the Scottish Government and endorsed as a positive tool to assist the sector in developing towards a consistent high standard.

4.4 Centralisation of procedures

This is key for ensuring that information reaches the appropriate party. If executed properly, this could avoid the issues associated with redisclosures, as a centrally accessible system could store information that could be returned to by authorised members of staff with the consent of the student, meaning they do not need to repeat their experience to others.¹⁵⁸

¹⁵⁷ Campus Sexual Violence Elimination Act (SaVE Act) (2013)

¹⁵⁸ At the time of writing, the University of Glasgow had just launched a Safeguarding Team which does this. More information available at:

<https://www.gla.ac.uk/myglasgow/students/newsletter/stories/headline_1024234_en.html>

The use of a ‘red flag’ system can aid this to ensure that information is being properly communicated across multiple departments. Students should be able to expect a holistic approach to the outcomes of a GBV complaint, and therefore it is important that a student’s disciplinary record is accessible by multiple members of staff. This form of information-gathering has been referred to ‘environmental investigations’ and can be key to safeguarding the student body, while also providing context for investigating officers that could alleviate the burden on reporting students to provide evidence themselves. Additionally, having a system like this in place could straddle the gap between informal reporting and formal procedures by offering students a way to flag misconduct through a centrally accessible channel while not having to interact with onerous formal reporting. It has been suggested that a system like this could borrow quality assurance frameworks from established equality, diversity, and inclusion (EDI) initiatives such as Athena Swan. Dr Anna Bull outlined suggestions for a system like this for use by those wishing to note the behaviours of staff members, however it could be equally valuable for student-to-student misconduct. By providing a formal, but ‘lower level’ way to flag misconduct, microaggressions in behaviours could be highlighted that would have otherwise gone unknown to universities for being perceived as ‘not serious enough’. After a certain number of red flags appear on a student’s profile, an investigation would be triggered by an independent officer of the university student conduct department, who would be able to access a myriad of information ranging from poor conduct in class, concerns within student accommodation, and reports from peers about worrying behaviour. In doing so, the onus would not fall to one individual reporting student to shoulder the burden of describing an individual’s violence against them, avoiding issues mentioned previously around the recreating of unequal power dynamics, cultures of resilience, and multiple disclosures.

Currently, no HEI in Scotland has such a system in place, but it has been identified by EmilyTest as minimum standard under their GBV Charter.

4.5 Students as key collaborators

Throughout this research, the reporting processes and responses from HEIs have been observed and evaluated from the point of use; from the perspective of a student reporting GBV. It clearly follows then, that developing and improving these procedures and tools should be done with the student experience in mind. This is largely the model that HEIs follow already, however in

a recent paper on fostering genuine collaborations to enhance the efficacy of interventions addressing GBV within the academic sphere, it was proposed that including students in the coalitions set up to tackle GBV was vital.¹⁵⁹ By doing so, HEIs would mitigate concerns that their primary concern is their own reputation, or that the wellbeing of students is not central to their considerations. Further, it would ensure that developments are made based on the lived experience of those interacting with the reporting process, which would encourage the response to be survivor-centred.

4.7 Conclusions

In conclusion, this work has provided an overview of the context, prevalence and reporting landscape of GBV that occurs within HEIs, which has highlighted an inconsistency of responses by Scottish HEIs. Against a background of explicit policy objectives and significant funding dedicated to the eradication of GBV in HEIs, this is a crucial moment which provides the opportunity not only for a unified approach across HEIs, but an approach which improves outcomes for students who experience GBV and sets Scotland up as a world leader in the field.

In assessing and analysing the reporting tools of each specific HEI, this work forms the basis upon which such a unitary approach could be based and allows for a consideration of positive elements of the existing reporting processes. It has been argued throughout this work, and is maintained here, that a central consideration in considering an effective response to GBV perpetrated in HEIs should be the experience of reporting tools at the point of use, and by extension, the experience of students themselves. In emulating as far as possible the process undertaken by a student making a report of GBV at each of the HEIs, the discussion throughout this work has both been cognizant of and informed by this consideration.

Further research in this area would benefit from empirical data collection from each HEI on the specific challenges that would be faced if the sector were to be unified. In doing so, gaps and limitations of a standardised approach could be understood and remedied in order to ensure that HEI students across Scotland can receive the same high standard of support following GBV.

¹⁵⁹ Michele Burman, 'Building Authentic Partnerships for Responding to Gender-Based Violence in Universities', in Susan Marine and Ruth Lewis (eds) *Collaborating for Change: Transforming Cultures to End Gender-Based Violence in Higher Education* (OUP 2020)

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