

Scottish Sentencing Council's Public consultation - Draft Domestic Abuse Guideline Social Work Scotland response

6 August 2026

Introduction

Social Work Scotland is the professional body for social work leaders, working closely with our partners to shape policy and practice, and improve the quality and experience of social services and as a result those who receive those services. As an organisation and across our members we are committed to service improvement and ongoing development based on evidence and research on how we can best meet the needs of those we work with and particularly those who experience the greatest challenges and barriers to their wellbeing and lives.

The social work profession is based on the principles of human rights, reflecting the value of all individuals and upholding their rights. We welcome the opportunity to offer views on draft Domestic Abuse Guideline.

Question 1: Is the structure of the guideline appropriate?

Social Work Scotland considers the overall structure of the guideline to be appropriate. The guideline is accessible and practical for sentencers while recognising the complexity and varied nature of domestic abuse.

However, greater clarity could be provided regarding how this guideline interacts with other relevant sentencing guidelines, particularly those relating to children and young people. Given the increasing prevalence of domestic abuse within younger age groups and the significant impact of domestic abuse on children, stronger signposting to these complementary guidelines would support a more holistic and consistent approach to sentencing.

Question 2: Are the four behaviours listed in paragraph 4 of the guideline appropriate?

Social Work Scotland agrees that the four behaviours identified in paragraph 4, namely physical, sexual, psychological and economic abuse, are appropriate and reflect key manifestations of domestic abuse.

However, we consider that the guideline would be strengthened by giving greater prominence to coercive control. Coercive control is not simply one feature of domestic abuse but is often the underlying pattern through which other abusive behaviours are perpetrated. As such, it should be explicitly referenced within the main body of the guideline rather than solely in a footnote.

We also consider that the guideline should give greater recognition to exploitation as a form of domestic abuse. This may include sexual, economic or criminal exploitation, including situations where victims are coerced into commercial sexual activity, criminal behaviour or other forms of exploitation for the perpetrator's benefit. Explicit recognition of exploitation would better reflect the experiences of many victims and the evolving nature of domestic abuse.

Question 4: Should any behaviours be added?

Yes. Social Work Scotland considers that the guideline would benefit from the explicit inclusion of coercive control and exploitation within the behaviours identified. While coercive control is referenced elsewhere in the guideline, it is a defining feature of domestic abuse and frequently underpins physical, sexual, psychological and economic abuse. Its inclusion

as a distinct behaviour would better reflect the lived experience of victims and contemporary understanding of domestic abuse.

As per our response to question 3, we also recommend that the guideline explicitly recognise exploitation, including sexual, economic and criminal exploitation. This would capture behaviours such as coercing a victim into commercial sexual activity, criminal offending, debt, or other activities for the perpetrator's benefit. Practitioners increasingly encounter these forms of abuse, and their inclusion would ensure the guideline reflects the evolving nature of domestic abuse and coercive control.

The addition of these behaviours would strengthen the guideline's ability to recognise the full range of harms experienced by victims and support a more comprehensive assessment of offending behaviour.

Question 4: Should any behaviours be removed?

No. Social Work Scotland does not consider that any of the behaviours currently listed in paragraph 4 should be removed. Physical, sexual, psychological and economic abuse remain core components of domestic abuse and collectively reflect the broad range of harms experienced by victims.

Question 5: Is the footnote discussing coercive control appropriate?

Social Work Scotland welcomes the inclusion of coercive control within the guideline and agrees that it is important to recognise its relationship to domestic abuse. However, we do not consider that a footnote provides sufficient prominence to a concept that is fundamental to understanding the nature and dynamics of domestic abuse.

Coercive control is frequently the mechanism through which physical, sexual, psychological and economic abuse are perpetrated and sustained. As such, it should be explicitly recognised within the main body of the guideline rather than being referenced solely in a footnote. This would better reflect current evidence and practice, support a more informed assessment of offending behaviour, and reinforce understanding of the cumulative and patterned nature of domestic abuse.

Social Work Scotland therefore recommends that the substance of the footnote be incorporated into the main text of the guideline.

Question 6: Is the footnote providing examples of economic abuse appropriate?

Social Work Scotland considers that the inclusion of examples of economic abuse is helpful and appropriate. Economic abuse can be less readily recognised than other forms of domestic abuse, and providing examples assists in illustrating the wide range of behaviours that may be involved, including controlling access to money, creating debt, restricting financial independence, or otherwise limiting a victim's economic security.

However, given the significance of economic abuse within patterns of coercive control, consideration should be given to placing at least some of this explanatory material within the main body of the guideline rather than solely within a footnote. This would better emphasise the seriousness and prevalence of economic abuse and support a fuller understanding of its impact on victims.

Question 7: Is it clear from paragraph 5 how the domestic abuse guideline is meant to interact with other sentencing guidelines?

Social Work Scotland considers that paragraph 5 provides a general indication that the domestic abuse guideline should be read alongside other relevant sentencing guidelines. However, greater clarity would be helpful in explaining how these guidelines are intended to operate together in practice and how potential areas of overlap should be addressed.

In particular, we note the absence of any specific reference to the sentencing guideline relating to children and young people. Given the increasing prevalence of domestic abuse involving younger individuals, both as victims and as those responsible for offending behaviour, clearer signposting to the young persons guideline would assist sentencers in ensuring that age, maturity and developmental factors are appropriately considered alongside the seriousness of the offence and the need to protect victims.

Question 8: Do you agree or disagree that the premise set out in paragraph 9 of the guideline is appropriate: 'A sentence imposed in respect of a domestic abuse offence should not be informed by any expressed wishes of the victim as to what the sentence should be'?

Social Work Scotland agrees with the underlying principle that the sentence imposed should not be determined by the victim's expressed wishes regarding the disposal. This approach recognises that domestic abuse often involves coercion, intimidation and ongoing power imbalances, and helps to avoid placing responsibility for sentencing outcomes on victims. It also reduces the risk of further pressure being exerted on victims to seek a particular outcome on behalf of the person responsible for the abuse.

However, we consider that the wording of paragraph 9 could be strengthened to ensure it is more clearly trauma-informed and does not appear to diminish the importance of the victim's experience or voice. While victims should not determine the sentence, their views, experiences and the impact of the abuse remain central to understanding the harm caused and the risks presented. Victim impact information and other opportunities for victims' voices to be heard should therefore continue to be recognised as important components of the sentencing process.

Social Work Scotland therefore supports the intent of the provision but recommends that the accompanying wording be revised to emphasise both the protection of victims from further coercion and the continuing importance of victim perspectives in informing the court's understanding of harm and risk.

Question 9: Is the rest of the guidance provided in relation to 'sentencing a domestic abuse offence' appropriate?

Social Work Scotland considers that the guidance provided in this section is broadly appropriate and welcomes the emphasis placed on the seriousness of domestic abuse, the importance of protecting victims from further harm, and the recognition of the cumulative impact that domestic abuse can have on those subjected to it. We particularly support the clear statement that a victim's reluctance to engage with the criminal justice process should not be interpreted as evidence of a lower level of harm or seriousness.

We also welcome the recognition that sentencing should take account of the trauma, breach of trust and wider harms associated with domestic abuse. These elements reflect the realities of domestic abuse offending and are important in supporting a consistent and informed approach to sentencing.

However, Social Work Scotland considers that the section could be strengthened by more explicitly recognising the central role of coercive control in shaping both the offending behaviour and the harm experienced by victims. Greater emphasis on the impact of domestic abuse on children, including situations where children are not the direct target of abuse but nevertheless experience significant harm, would also enhance the guidance.

Question 10: Is the guidance provided in relation to assessing seriousness appropriate?

Social Work Scotland considers that the guidance on assessing seriousness is appropriate and reflects the nature of domestic abuse offending. We welcome the recognition that seriousness should be assessed with reference to both culpability and harm, and that harm

may arise from the cumulative and ongoing impact of abusive behaviour rather than from a single incident in isolation.

We particularly support the recognition that domestic abuse is often characterised by patterns of behaviour which have profound and lasting effects on victims, and that the full context of offending should be taken into account when assessing seriousness. The guidance appropriately acknowledges that a victim's reluctance to engage with the criminal justice process should not be regarded as indicative of a lower level of harm or seriousness.

As with previous sections of the guideline, Social Work Scotland considers that the section could be strengthened through more explicit reference to coercive control as a key factor in assessing both harm and culpability. Greater emphasis on the impact of domestic abuse on children, including situations where children are exposed to abuse rather than directly targeted, would also assist sentencers in fully recognising the seriousness of offending.

Question 11: Should any guidance be added?

Social Work Scotland considers that the guidance on assessing seriousness is broadly comprehensive. However, it would be strengthened by more explicit reference to coercive control as a central consideration when assessing both culpability and harm.

We also consider that additional guidance on the impact of domestic abuse on children would be beneficial. Seriousness should reflect not only direct harm to the victim but also the significant and often long-term harm experienced by children who are exposed to domestic abuse, whether or not they are directly targeted.

Finally, consideration should be given to recognising the ways in which perpetrators may continue abusive behaviour through the misuse of civil proceedings, contact arrangements, family members, associates or other third parties. Explicit reference to these forms of ongoing coercion would assist sentencers in assessing the full extent and seriousness of offending behaviour.

Question 12: Should any guidance be removed?

Social Work Scotland does not consider that any of the guidance on assessing seriousness should be removed. The existing provisions appropriately recognise the importance of assessing both culpability and harm, including the cumulative impact of abusive behaviour and the need to consider the wider context in which domestic abuse occurs.

As outlined in the response to question 11, rather than removing guidance, our view is that the section would be strengthened by expanding certain areas, particularly in relation to coercive control, the impact on children, and the ongoing nature of abuse beyond individual incidents.

Question 13: Are the statutory aggravations appropriate?

Social Work Scotland considers that the statutory aggravations identified in the guideline are appropriate and reflect important factors that increase the seriousness of domestic abuse offending. In particular, we support the inclusion of the domestic abuse aggravation and the aggravation relating to the involvement of a child, both of which recognise the heightened harm associated with these offences.

However, we consider that greater prominence should be given to the impact of domestic abuse on children. The guideline presents an important opportunity to reinforce that children are frequently affected by domestic abuse, whether they witness, hear or otherwise experience its consequences. Stronger links between the child aggravation and the assessment of seriousness would help ensure that the harm experienced by children is consistently recognised within sentencing decisions.

Question 14: Should any statutory aggravations be added to the guideline?

Social Work Scotland does not consider that there is a clear need to add further statutory aggravations to the guideline at this stage. The existing statutory aggravations relating to domestic abuse, the involvement of a child and offending whilst on bail provide an appropriate framework for recognising key factors that increase the seriousness of offending.

Our primary concern is not the absence of additional statutory aggravations, but rather ensuring that existing aggravations are consistently identified, applied and given appropriate weight in sentencing decisions.

Social Work Scotland would also encourage continued monitoring of emerging patterns of domestic abuse, including the increasing use of coercive control, exploitation and technology-facilitated abuse. While these issues may not require additional statutory aggravations at present, they should be clearly recognised within the assessment of seriousness and existing aggravating factors.

Question 15: Should any statutory aggravations be removed from the guideline?

Social Work Scotland does not consider that any of the statutory aggravations included within the guideline should be removed. The aggravations relating to domestic abuse, the involvement of a child and offending whilst on bail each recognise factors that can significantly increase the seriousness of offending and the risk of harm experienced by victims and their families.

These aggravations reflect important features of domestic abuse cases and provide sentencers with a mechanism to acknowledge additional harm and culpability.

Question 16: Are the non-statutory aggravating factors, including in relation to children, appropriate?

Social Work Scotland considers that the non-statutory aggravating factors included within the guideline are broadly appropriate and reflect many of the circumstances that can increase the seriousness of domestic abuse offending. We particularly welcome the recognition of factors such as preventing a victim from seeking assistance, forcing a victim to leave their home, a history of abusive behaviour, non-compliance with court orders, and the use of children within abusive conduct.

We strongly support the inclusion of aggravating factors relating to children and consider that the impact on children should be given greater prominence throughout the guideline to reinforce the significance of these harms.

We also consider that some factors would benefit from further clarification. In particular, the reference to a victim being "particularly vulnerable" risks obscuring the differing forms of vulnerability that may arise in domestic abuse cases. Greater recognition of circumstances such as pregnancy, disability, mental ill-health, immigration status, cultural factors and other forms of disadvantage may assist sentencers in understanding the heightened risks faced by some victims.

Question 17: In particular, is the aggravating factor 'cultural violation' appropriate?

Social Work Scotland considers that the inclusion of cultural violation as a non-statutory aggravating factor is appropriate. Domestic abuse can be perpetrated through the misuse of cultural, religious or family expectations, and victims may experience additional barriers to seeking support, reporting abuse or leaving abusive relationships as a result. Recognising cultural violation as an aggravating factor acknowledges these additional harms and vulnerabilities.

However, we consider that the concept would benefit from greater prominence and explanation within the main body of the guideline rather than being addressed primarily through a footnote. Cultural violation may encompass a range of behaviours, including restricting participation in cultural or religious life, forced marriage, honour-based abuse, female genital mutilation, and other forms of coercion linked to cultural or family expectations. Clearer explanation within the substantive text would assist sentencers in recognising the seriousness and distinct nature of these harms.

Question 18: Is the footnote discussing ‘cultural violation’ appropriate?

Social Work Scotland welcomes the inclusion of explanatory material relating to cultural violation. However, we do not consider that a footnote is sufficient to convey the significance of this issue within the context of domestic abuse. Cultural violation can involve serious forms of harm and coercion that may be closely linked to power, control, isolation and barriers to seeking support.

We consider that the explanation of cultural violation should be incorporated into the main body of the guideline rather than being confined to a footnote. This would give greater prominence to the issue and assist sentencers in recognising the particular vulnerabilities and harms that may arise in cases involving forced marriage, honour-based abuse, female genital mutilation, restrictions on cultural or religious participation, and other forms of abuse linked to cultural or family expectations.

Question 19: Should any non-statutory aggravating factors, including in relation to children, be added to the guideline?

Yes. Social Work Scotland considers that the guideline would benefit from the inclusion of additional non-statutory aggravating factors which reflect the evolving nature of domestic abuse and coercive control. In particular, consideration should be given to recognising the use of family members, associates or new partners to continue, facilitate or reinforce abusive behaviour towards a victim. Such conduct can perpetuate coercion and intimidation even where the perpetrator has limited or no direct contact with the victim.

We also consider that greater recognition should be given to the misuse of legal and administrative processes as a means of continuing abuse. This may include the inappropriate use of civil proceedings, child contact arrangements, or other statutory processes to exert control, cause distress or maintain ongoing involvement in a victim’s life. While some reference is already made to child contact arrangements, broader recognition of these behaviours would better reflect the lived experience of many victims.

In relation to children, we consider that the guideline should place greater emphasis on harms arising where children are exposed to domestic abuse, drawn into abusive dynamics, or used by perpetrators as a means of maintaining control over a victim. Strengthening these aspects of the guideline would support a fuller assessment of both harm and culpability.

Overall, Social Work Scotland supports the existing aggravating factors but recommends the addition of factors relating to the use of third parties and the misuse of legal or statutory processes as tools of coercive control.

Question 20: Should any non-statutory aggravating factors, including in relation to children, be removed from the guideline?

Social Work Scotland does not consider that any of the non-statutory aggravating factors currently included in the guideline should be removed. The factors identified reflect important aspects of domestic abuse offending and help ensure that the full context, impact and seriousness of abusive behaviour can be recognised within sentencing decisions.

Question 21: Should any mitigating factors be added to the guideline?

Social Work Scotland does not consider that additional mitigating factors should be added to the guideline. Domestic abuse differs from many other forms of offending because it is frequently characterised by patterns of coercion, control and cumulative harm that may not be immediately apparent from the individual offence before the court.

Our concern is not the absence of mitigating factors, but the potential for generic mitigating factors to be applied without sufficient consideration of the particular dynamics of domestic abuse. Factors such as provocation, previous good character, expressions of remorse, or a willingness to address personal problems may require especially careful scrutiny in this context, as they can risk minimising or obscuring patterns of coercive and controlling behaviour.

Social Work Scotland therefore considers that the guideline would benefit more from clear cautionary guidance on the application of existing mitigating factors in domestic abuse cases than from the introduction of additional mitigating factors. Such guidance should emphasise the need to consider the wider context of offending, the hidden and cumulative nature of abuse, and the risk of explanations or justifications being used to minimise responsibility for harmful behaviour.

Question 22: Is the section of the guideline addressing non-harassment orders at paragraphs 19-23 appropriate?

Social Work Scotland welcomes the inclusion of a dedicated section on non-harassment orders and agrees that they are an important mechanism for protecting victims and reducing the risk of further abuse. We particularly support the emphasis on the statutory presumption in favour of a non-harassment order in relevant domestic abuse cases and the recognition that victim safety must remain a central consideration.

However, we consider that the section could be strengthened further. The presumption in favour of a non-harassment order should be given greater emphasis, with clearer guidance on the circumstances in which a court may determine that such an order is unnecessary. Stronger wording would support greater consistency in the use of non-harassment orders and reinforce their role in protecting victims from ongoing harm.

The guideline would also benefit from greater emphasis on ensuring that non-harassment orders are tailored to the specific risks posed by the offender. This should include consideration of protections relating to children, places of work, education settings and other locations relevant to the victim's safety and wellbeing. Consideration should also be given to the duration of orders to ensure that protection does not end prematurely where risk remains.

Finally, Social Work Scotland recognises concerns raised by practitioners regarding repeated breaches of non-harassment orders and the need for effective enforcement. Consideration should therefore be given to the use of additional protective measures, including electronic monitoring where appropriate, particularly in cases involving persistent non-compliance, stalking behaviours or ongoing risk to victims.

Question 23: Do you think the guideline will influence sentencing practice in Scotland?

Social Work Scotland considers that the guideline has the potential to positively influence sentencing practice in Scotland by providing a clearer and more consistent framework for assessing the seriousness of domestic abuse, recognising aggravating factors, and promoting consideration of victim safety. The guideline also has the potential to strengthen understanding of domestic abuse as a pattern of behaviour characterised by coercion and control rather than a series of isolated incidents.

Ultimately, the extent of its impact will depend on how consistently it is applied in practice. Effective implementation will require awareness, engagement and ongoing support for sentencers to ensure that the principles underpinning the guideline are reflected in decision-making. Given the well-documented variation in sentencing approaches, it will be

important that the introduction of the guideline is accompanied by appropriate dissemination, training and evaluation.

Social Work Scotland would therefore encourage the Scottish Sentencing Council to consider how the impact of the guideline will be monitored and reviewed over time. Ongoing evaluation will be important in determining whether the guideline achieves greater consistency in sentencing and improved outcomes for victims of domestic abuse.

Question 24: Do you think the guideline will lead to an increase or decrease in public understanding of how sentencing decisions are made?

Social Work Scotland considers that the guideline is likely to increase public understanding of how sentencing decisions are made in domestic abuse cases. The guideline sets out the factors that should be considered when assessing the seriousness of offending, the role of aggravating and mitigating factors, and the importance of victim safety and non-harassment orders. By providing a clear and accessible framework, it has the potential to improve transparency and understanding of the sentencing process.

The guideline may also help to enhance public understanding of the nature of domestic abuse itself, particularly where it recognises the cumulative impact of abuse and the significance of coercive and controlling behaviour. Strengthening references to coercive control, exploitation and the impact on children would further support this objective and better reflect contemporary understanding of domestic abuse.

However, improvements in public understanding will depend not only on the content of the guideline but also on how it is communicated and applied in practice. Clear public information, consistent implementation and transparent sentencing decisions will be important in ensuring that the guideline contributes to greater public confidence in the criminal justice response to domestic abuse.

Question 25: Do you see any benefits or negative effects arising from the introduction of this guideline?

Social Work Scotland considers that the introduction of this guideline has the potential to deliver significant benefits. In particular, it should promote greater consistency and transparency in sentencing, improve recognition of the seriousness and cumulative nature of domestic abuse, and encourage a stronger focus on victim safety. The guideline also provides an opportunity to improve understanding of coercive and controlling behaviour and the impact of domestic abuse on children, helping to ensure that these factors are more consistently reflected in sentencing decisions.

The guideline may also strengthen public confidence in the justice system by providing a clearer framework for how domestic abuse offences are assessed and sentenced. Greater consistency in the use of aggravating factors and non-harassment orders could contribute to improved protection for victims and a more informed response to domestic abuse across Scotland.

The principal risk is that the intended benefits may not be fully realised if the guideline is not consistently applied in practice. Variability in sentencing approaches, limited recognition of coercive control, or inconsistent use of protective measures such as non-harassment orders could reduce its effectiveness. There is also a risk that generic mitigating factors may be applied without sufficient consideration of the specific dynamics of domestic abuse unless appropriate caution is provided within the guidance.

Question 26: Do you feel that the introduction of the guideline might impact some groups of people more than others in a disproportionate way?

Social Work Scotland considers that the guideline has the potential to improve outcomes for groups that are disproportionately affected by domestic abuse, particularly women, children and those experiencing coercive and controlling behaviour. The guideline's focus on recognising patterns of abuse, cumulative harm and victim safety should support a more informed and consistent response to the experiences of these groups.

We also welcome the inclusion of factors relating to cultural violation, victim vulnerability and the impact on children, as these provide an opportunity to recognise the additional barriers and harms experienced by some victims. However, the effectiveness of the guideline in addressing these issues will depend on how clearly these factors are articulated and how consistently they are applied in practice.

Social Work Scotland considers that particular attention should be paid to the experiences of victims who may face additional barriers in accessing protection or engaging with the justice system, including those from minority ethnic communities, victims with disabilities, victims experiencing mental ill-health, and those whose immigration status, cultural circumstances or economic dependence increase their vulnerability. The guideline should support sentencers to recognise these intersecting factors where they contribute to harm or increase risk.

We also note the increasing prevalence of domestic abuse involving younger people and the importance of ensuring that the interaction between this guideline and guidance relating to children and young people is clearly understood. This will help ensure that the needs of both young victims and younger individuals involved in offending behaviour are appropriately considered.

Question 27: What costs (financial or other) do you see arising from the introduction of this guideline, if any?

Social Work Scotland considers that any costs arising from the introduction of the guideline are likely to be justified by the potential benefits associated with greater consistency in sentencing and improved protection for victims of domestic abuse. However, there are likely to be some financial and operational implications for justice and partner agencies.

In the short term, costs may arise from the need for training, awareness-raising and implementation activity to support sentencers and justice practitioners in applying the guideline consistently and effectively. There may also be increased demands on services involved in the assessment and management of domestic abuse cases if the guideline leads to greater consideration of aggravating factors, non-harassment orders and victim safety measures.

There may be resource implications associated with increased use and enforcement of non-harassment orders, including the monitoring of compliance and the use of protective measures such as electronic monitoring where appropriate. Similarly, if the guideline results in greater recognition of the impact of domestic abuse on children and the wider family, there could be additional demands on support services and multi-agency risk management arrangements.

Nevertheless, Social Work Scotland considers that these costs should be viewed in the context of the significant social and economic costs associated with domestic abuse. A more consistent, informed and preventative approach to sentencing has the potential to reduce reoffending, improve victim safety and lessen longer-term demand on criminal justice, health, social work and victim support services.

Question 28: Please provide details about anything else you feel is of importance regarding sentencing for domestic abuse offences.

Social Work Scotland welcomes the development of a specific sentencing guideline for domestic abuse and recognises its potential to improve consistency, transparency and public confidence in sentencing. The guideline provides an important opportunity to reinforce contemporary understanding of domestic abuse as a pattern of behaviour characterised by coercion, control and cumulative harm rather than a series of isolated incidents.

We consider it particularly important that the final guideline gives greater prominence to coercive control throughout, recognising its central role in shaping both offending behaviour and victim experience. We also believe that further recognition should be given to

exploitation, including sexual, economic and criminal exploitation, as increasingly observed forms of domestic abuse.

The impact of domestic abuse on children should remain a key consideration throughout the guideline. Children can experience significant and enduring harm from exposure to domestic abuse, even where they are not the direct target of offending behaviour. The guideline presents an opportunity to strengthen recognition of these harms and ensure they are consistently taken into account during sentencing.

Social Work Scotland also emphasises the importance of ensuring that victim safety remains central to sentencing decisions. This includes effective use of non-harassment orders, consideration of appropriate protective measures, and recognition of the risks posed by ongoing coercive behaviour, including abuse perpetrated through third parties, family members, associates or the misuse of legal and administrative processes.

Finally, the effectiveness of the guideline will depend on its implementation in practice. Appropriate training, dissemination, monitoring and review will be essential to ensure that the guideline achieves its intended outcomes and contributes to a more consistent, informed and trauma-responsive approach to sentencing domestic abuse offences across Scotland.

For further information, please do not hesitate to contact:

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