

Domestic Abuse and Family Proceedings Bill, Views/Comments. [REDACTED]

How this new Domestic Abuse Legislation enhances existing legislation and whether it fully addresses the gaps in existing law and will it improve the ability of the justice agencies to prosecute Domestic Abuse cases.

In my opinion the new legislation does enhance current legislation as it clearly defines non-physical behaviour (psychological, threatening, controlling, isolating, humiliating, degrading, intimidating etc) as a crime (Clause 1 (2) (a) (b), (3), (4) Clause 2 (1), (2), (3), (4), (5)) and makes provision to protect victims of Domestic Abuse from being cross examined by perpetrators in person at family proceedings thus addressing harmful behaviour not captured under current offences (Clause 23 (1), (2)) and effectively addressing gaps in current legislation.

In theory the new legislation should improve the ability of the justice agencies to prosecute Domestic Abuse cases. The reality, however, may be different. I suggest we need to understand what measures are in place to ascertain as to whether or not the ability of the justice agencies to prosecute has improved or will improve. What would success look like? For example, the PSNI definition of Domestic Violence and Abuse as outlined in the 2016 Government Strategy, aligns with the new legislation. According to the latest Domestic Abuse statistics (April 2019 – March 2020) issued by the PSNI, there were 18640 recorded Domestic Abuse crimes (the highest figure since records began in 2004). According to PSNI statistics a 26.1% outcome was achieved. If I am interpreting the data correctly (ie outcome rate equals the total number of crimes “cleared up” divided by the total number of recorded offences) that means 73.9% of Domestic Abuse crimes (13767 recorded crimes) have not yet led to any form of prosecution. Does an analysis of this data exist to understand what the key issues are in order to facilitate the development of appropriate action plans, how will all justice agencies align and report on such analysis?

The definition of the offence and the definition of abusive behaviour.

Both are clearly defined in Chapter 1 Clauses 1 & 2.

In my opinion these clauses deliver on the intent of the Bill, ie;

- Addressing harmful behaviour not captured under existing offences
- Recognising in law patterns of behaviour
- Giving PSNI the opportunity to take forward charges on non- violent abusive behaviour
- Focus on things said as well as things done
- Offence committed when accused intends to cause harm or is reckless
- Additional protection for victims. Prohibition of cross examination in person

- Encourage more victims to come forward, ultimately reduce harm caused by abusive behaviour.
- Intent not to criminalise ordinary arguments

Any identified issues regarding the investigation and prosecution of the new offence

I would not have any knowledge on the day to day detail of this, however the outcome rates in terms of Domestic Violence and Abuse crimes recorded by the PSNI not leading to prosecutions suggests to me that there are emerging issues. A deeper analysis of the data would need to be undertaken in order to understand root cause and actions required to address.

Whether the reasonable defence included in legislation is framed appropriately and the intent of when it would apply is clear.

My understanding is that this is a supplementary provision that provides a defence for the accused to show that the course of behaviour was, in the particular circumstances reasonable (eg for the protection of household finances where the partner/connected person had a gambling addiction or prevent the partner/connected person from associating with certain persons or places if the connected person is suffering from an alcohol or drug addiction or restrict freedom of movement of the connected person for their own safety due to dementia.) The terminology in the Bill (Clause 12) is broad and makes no detail reference reasonable mitigations. Would it be appropriate to amend the text of Clause 12 subsection (1) to include the words addictions, dementia in brackets after the word circumstances? This may help to clarify the intent of when it would apply.

Whether the I am not professionally qualified to give an objective answer to this however I would state that in my opinion, the penalties as outlined in Clause 14 (a) and (b) are appropriate and adequate.

penalties provided for in the Bill are appropriate and adequate.

Any other legislative or non-legislative approaches to tackle Domestic Abuse not currently in place that should be taken forward either in this Bill or in another piece of legislation.

I would refer to the current Consultation Paper in respect of the Independent Review of Hate Crime Legislation in Northern Ireland. As a key part of it's remit, the review is asked to consider "whether there is potential for alternative or mutually supportive restorative approaches for dealing with hate motivated offending"

I believe this should this also be a consideration when tackling Domestic Abuse Legislation.