

05 June 2020

Committee Clerk
Committee for Justice
Room 242
Parliament Buildings
Ballymiscaw
Stormont
Belfast
BT4 3XX

Dear Madam,

Re: Domestic Abuse and Family Proceedings Bill

Thank you very much for your invitation to contribute to the development of the Domestic Abuse and Family Proceedings Bill.

The Commissioner for Older People for Northern Ireland (COPNI) is very supportive of measures which aim to protect vulnerable people such as those contained in the Domestic Abuse Bill. COPNI is acutely aware of the dynamics of 'behind closed doors' offending and the reality that, be it spousal or carer abuse, society here has had, to a degree, a somewhat ambivalent attitude towards such crimes.

With regards to such offending, COPNI has focussed on advocating for specific Adult Safeguarding Legislation since 2014 when we published '*Protecting our Older People in Northern Ireland: A Call for Adult Safeguarding Legislation*' available at: https://www.copni.org/media/1129/protecting_our_older_people_in_northern_ireland_report_1.pdf . Notwithstanding our wholehearted support for the motivation underpinning the development of the Domestic Abuse Bill, COPNI are firmly of the belief that only specific, adult safeguarding legislation would comprehensively address the needs of vulnerable adults both in care and domestic settings. Simply put, the vast surge in police investigations underway following the Dunmurry and Muckamore revelations and the growing consciousness about the abuse of older people, could only ever effectively be addressed with our proposals for an Adult Safeguarding Bill.

The Domestic Abuse Bill, understandably, is not intended to address the broad swathe of issues related to Adult Safeguarding. For the purposes of removing any suggestion that this Domestic Abuse Bill could represent a substitute for Adult Safeguarding legislation, it is worth stressing that the Bill addresses offences of abuse by a person of another whose relationship must fall into the narrowly defined category of 'personally connected'(1.1 (b)). Such criteria, consequently limits the protection offered people living in care and nursing accommodation which is, of course, their own home.

Again, no doubt for good reason, the protection of a vulnerable older person falls outside the stated aggravating factors contained in the Bill: where 'the victim is under 18' (8); and where a 'relevant child is involved' (9). Recognising these limitations is not a criticism of the progressive intent behind the Domestic Abuse Bill or indeed the Bill itself, but rather an attempt to highlight the work to be done to protect the vulnerable in our society.

As to the specific content of the Bill, COPNI is concerned that by allowing as a defence 'for A to show that the course of behaviour was reasonable in the particular circumstances' (12.1), may allow abusive behaviour to go unpunished. In particular, we note the phrasing of (12.2 (a)) that 'evidence adduced is enough to raise an issue as to whether the course of behaviour is as described in subsection (1)'.

COPNI is of the opinion that given the power imbalance in many domestic situations and in practically all carer relationships (materially, financially, psychologically and/or physically) a codification such as this may be problematic. The phrase 'enough to raise an issue' seems sufficiently loose as to conceivably allow for victim-blaming as a means of defence. It cannot be the case that the dominant person in the relationship need only raise a query over the victim's behaviour in order to rationalise abuse, as such a formulation may allow.

COPNI would as a consequence be supportive of any efforts to tighten up this clause while allowing the standard reasonable test as a defence but only when formulated in a manner which recognises the power dynamics of many domestic arrangements.

I would be pleased to provide any further information on this subject or indeed on any aspect of our work. Thank you again for getting in touch with us and for your important work on legislation to protect vulnerable people.

Yours Faithfully

Emer Boyle
Head of Legal and Policy Advice
Commissioner for Older People for Northern Ireland