

## Derry and Strabane Policing and Community Safety Partnership (PCSP) Draft Response to NI Assembly 'Domestic Abuse and Family Proceedings Bill' Consultation

**Has this new domestic abuse legislation enhanced existing legislation and does it fully address the gaps in existing law to improve the ability of justice agencies to prosecute domestic abuse cases?**

The Derry and PCSP welcomes the opportunity to respond to the NI Assembly consultation on the Domestic Abuse and Family Proceedings Bill. The PCSP believes that the Bill will enhance existing legislation by addressing harmful behaviours not currently captured under existing legislation by allowing police to take forward charges upon presentation of a pattern of non-violent abusive behaviour. This will potentially support earlier interventions in such cases and provide additional protections to victims. It is hoped that the Bill will encourage victims to come forward through the expanded recognition of abusive behaviours and ultimately reduce the number of victims of domestic violence and abuse.

The PCSP recognises the work carried out by the task and finish group and community organisations in bringing the Bill to this stage.

Whether the Bill addresses all the gaps in existing legislation dealing with domestic abuse and violence remains to be seen from its implementation. It does, however, have the potential to enhance the protection of victims, address the issues of emotional, financial and psychological abuse and deal with coercive control by a partner, former partner or close family member. Control is at the heart of domestic abuse and this Bill represents a forward step by recognising that abuse can be emotional, psychological and coercive as well as physical.

The PCSP looks forward to the implementation of the Bill and will ensure that we continue to engage with police and our partners (Foyle Women's Aid, Nexus, La Dolce Vita, Men's Action Network etc.) to monitor the impact that the new legislation is having on victims

## **The definition of the offence and the definition of abusive behaviour**

It is clear from the 'Domestic Abuse and Family Briefings Bill' update to the Justice Committee on 12<sup>th</sup> March 2020 what will be covered by the offence and definition of abusive behaviour. In very general terms, the offence will capture patterns of psychological and emotionally abusive (non-physical) behaviour that is controlling and coercive in nature and/or patterns of physical/violent/sexual behaviour against a partner, former partner or close family member.

In summary, the key elements of the new domestic abuse offence would be that:

- abusive behaviour would include behaviour directed towards the victim that is physically or psychologically violent, threatening or intimidating;
- the offence would also cover behaviour directed towards the victim, their pet or property that is abusive because it is coercive or controlling or amounts to psychological, emotional, financial or sexual abuse of the other person;
- the provisions would apply where the behaviour is intentional, or reckless as to its effect;
- harm would not have to be caused as a result of the abusive behaviour, rather an offence would be committed where a reasonable person would consider that the behaviour would be likely to cause harm. This could mean that there would be further opportunities to explore police led prosecutions with limited victim involvement;
- it would make reference to types of behaviour that would be considered to be abusive, though not be limited to those listed;
- abusive behaviour would relate to saying, doing or communicating something as well as a failure to do this (where it is intentional or the person was reckless);
- a defence would be that the behaviour in the particular circumstances of the case is deemed to be reasonable. It would be for the defence to provide evidence of this;

The Department has also intimated that further guidance will be issued around the operation of the domestic abuse offence.

Clause 1 of the Bill defines the domestic abuse offence while Clause 2 defines what amounts to abuse behaviour.

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

The Derry and Strabane PCSP acknowledges that domestic abuse and domestic violence is a major issue in our district and welcomes the significant work to address this by both our statutory and community partners. We welcome the Bill which intends to widen the current legislative framework for tackling this crime type and recognises that the Department has consulted extensively with relevant agencies before bringing the Bill to the Assembly. While the investigation and prosecution of the new offence will be the responsibility of PSNI and the judicial system the PCSP intends to monitor the implementation of the Bill through ongoing engagement with and support for our voluntary partners that deliver services to victims of this crime. The PCSP will also receive quarterly updates from the PSNI District Commander on the measures included in the Local Policing Plan for 2020/21 which includes:

Measure 1.1.1: Repeat victimisation rate and report on initiatives to support repeat victims with a focus on (i) domestic abuse, (ii) Child Sexual Abuse and Exploitation (iii) hate crime and (iv) burglary

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

The ‘reasonable’ defence as outlined in clause 12 of the Bill allows the accused to defend his/her actions on the grounds that the behaviour was, in the particular circumstances, reasonable. This may apply where the accused has taken specific action for the benefit or protection of their partner/connected person. Examples of situations when this defence may apply are outlined in clause 12 but in all cases the onus is on the accused to bring forward sufficient evidence for the ‘reasonable’ defence. Each case will be informed and determined by the evidence presented to the court.

The PCSP is satisfied that the ‘reasonable’ defence is framed appropriately and that the intent of when it would apply is clear while acknowledging that each case will be determined on the specific evidence presented to the court.

**Whether the penalties provided for in the Bill are appropriate and adequate**

Clause 14 of the Bill provides that the penalty for the offence is 12 months or a fine (or both) on summary conviction (that is at magistrate's court level) and 14 years or a fine (or both) on conviction on indictment (that is at Crown Court level). The higher sentence is intended to reflect the fact that the offence could incorporate physical and sexual violence as well as non-physically abusive behaviour.

The PCSP accepts that these sentence recommendations are appropriate and adequate given the extensive input into the framing of the Bill by statutory and community partners in the 'task and finish group who agreed that sentencing should reflect the seriousness of the offence. We also recognise the ongoing discussions the Department is having with Men's Advisory Project, NSPCC, Nexus, Victim Support and Women's Aid.

**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 or by other means**

Ensure continued support for local advocacy and support services for victims of domestic abuse locally i.e. Foyle Women's Aid, La Dolce Vita, Nexus, Men's Action Network, the Rainbow Project etc.

Email completed response to:

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