



**Response from the Education Authority to the Committee for Justice Scrutiny of
the Domestic Abuse and Family Proceedings Bill**

June 2020

The Committee for Justice would welcome your views/comments on the content of the Bill. How this new domestic abuse legislation enhances existing legislation and whether it fully addresses the gaps in existing law and will improve the ability of the justice agencies to prosecute domestic abuse cases.

The Education Authority (EA) is grateful for the opportunity to provide an input to the Committee's deliberations in relation to the Bill. The Authority welcomes this new domestic violence legislation in particular the inclusion of non-physical abusive behaviour including coercive control as a new offence. We believe this is a hugely under-reported issue and wish to play our part in reducing the stigma for victims to come forward.

The new legislation enhances and increases the awareness and understanding of domestic abuse and in particular takes more cognisance of its impact on victims thus improving on existing legislation; it goes further to support and protect victims and punish perpetrators. The inclusion of under 18's is welcomed in the light of peer on peer abuse which can occur in controlling relationships.

The key new changes and additionally that the Bill provides, focuses on closing a gap in terms of the inclusion of non-violent/physical coercive controlling behaviour and also the new powers to charge individuals.

The definition of the offence and the definition of abusive behaviour

This is now extensive to include non-violent /physical abusive behaviour including coercive and controlling behaviour with patterns of behaviour inflicted on 2 occasions.

However are there not occasions when someone can abuse another person on a singular occurrence? For example removing papers that belong to them that prevent them for exercising their rights. Does there need to be any reference to other forms of abuse within the Bill for

example; modern slavery and exploitation and coercive control related to immigration status.

The Committee may seek clarity as to whether these fall into a statutory definition and whether they can be picked up in guidance developed under the Bill.

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

The Bill gives the increased powers required to deliver a more resilient justice system and allows the police with the opportunity to take forward charges upon presentation of patterns of non-violent/physical abusive. Further we welcome the use of Domestic Abuse aggravators for sentencing and the decision to prevent cross-examination of witnesses by persons accused of domestic abuse in criminal and family proceedings. Likewise the EA welcomes Clause 22 which amends the Criminal Evidence Order 1999 to enable complainants and witnesses of the domestic abuse offence and aggravated offences to automatically be eligible for consideration of special measures when giving evidence (for example the use of live links, screens, etc.). **The Committee may wish to emphasise the importance of this provision for young people who may be a witness to DV and called to provide evidence.**

EA especially welcomes the child aggravator contained within Clause 9 (2) (b) as this recognises that children are victims in their own right when they witness domestic abuse. We welcome the maximum sentences contained within this legislation, as this acknowledges the serious impact of domestic abuse on victims.

EA notes the Domestic Abuse “effects” 2 3 (3) as comprehensive.

EA welcomes the suggestion of guidance to accompany the new Bill and will ensure subsequently that EA guidance to staff and managers are in complement with it.

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

Yes it is clear and well framed that a test of reasonableness will be applied to evidence provided on a case by case basis to recognition of the patterns of behaviours occurring and the resulting impact of the victim.

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

The penalty of imprisonment of 14 years or a fine of both on indictment allows the Crown Court to assess each individual case and reflect the severity in the sentence allotted; particularly in relation to incorporating physical and sexual violence as well as non-physically abusive behaviour.

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

The EA’s Child Protection Support Service (CPSS), through its regular training, advice and support for school staff, will ensure that frontline workers in education are aware of this new legislation and are further equipped to support children who are victims of domestic violence.

The EA notes the continued need for a comprehensive preventative curriculum in relation to issues around domestic abuse and the need to ensure all pupils have access to this. While this is not a matter for the Department of Justice alone, this is in keeping with the ‘Prevention and Early Intervention’ strand of the Seven Year Domestic Violence strategy. Building a preventative curriculum is essential in helping children recognise abuse to themselves or others and to seek help.

The EA currently support all primary schools in NI in the training provided by Women’s Aid entitled “Developing Social Guardians.” In addition to this, all NSPCC NI Keeping Safe materials are available to teachers via the C2k platform Fronter.

The Committee may wish to look further as how preventative curriculum can complement and support the introduction of the new offence. Awareness raising of the new offence is particularly important as it can apply to relationships of young people under 18.

The EA are members of each area domestic and sexual violence partnership, represented by the CPSS. As a statutory agency with a mandate to safeguard, the EA also, through the CPSS represent the education sector at all 10 multi-agency risk assessment conferences (MARAC), sharing relevant, proportionate information with schools and EA services.

The EA are keen to progress the pilot of Operation Encompass in the SEHSCT, under the leadership of the SBNI and are providing an officer from the CPSS to the working group. Operation Encompass ensures there is a simple phone call or notification, to a trained member of school staff, before a child arrives in school. The call or notification is triggered by police recently attending the child's home or being involved in a domestic abuse incident, that the child has experienced. We would like to see this initiative developed regionally in NI.

EA believe there to be areas of the Bill that need further strengthening such as:

- Legislative gaps, the need for the legislation or guidance to empower and enable PSNI to communicate with the school when there are children exposed to DA. The Department of Health has not yet finalised regional interagency information sharing guidance and a replacement for HSC circular 3/96 sharing to safeguard the Committee may wish to ensure that the PSNI have clear legislative authority to share proportionate and relevant concerns about an incident of domestic abuse with a school's designated teacher for safeguarding. The EA notes that such information sharing has worked well in 'Operation Encompass' within GB. If this legislative gap is addressed, then the EA's CPSS will play an active role in training school safeguarding leads on how to best respond to children who have been present during an incident of domestic abuse.
- The term reckless 2 b (ii) to be defined further.

- Defining the circumstances where a reasonable defense is linked to mental health e.g. severe dementia, and what underlying condition does not constitute reasonable defense.
- Coercive control can often be perpetrated via electronic and 'online' forms. The Department of Justice should consider developing guidance in relation to how this new legislation should be interpreted in regard to how perpetrators of domestic abuse use electronic means.

EA is committed to raising awareness, educating staff and putting in place measures to support staff to be free from all forms of abuse cited in this legislation.

The Education Authority (EA) has already committed to bring forward a workplace policy on Domestic Abuse. It will align to the provisions and ethos of the Domestic Abuse and Family Proceedings Bill.

This workplace policy was committed to in the EA Gender Action Plan (2019-2021). The Gender Action Plan along with other workplace strategies such as the Health and Wellbeing Strategy (2019-2022), Equality Action Plan and Disability Action Plan aim to support and enhance staff experiences in the workplace.

The EA Domestic Abuse Policy will outline key areas such as:

- An organizational commitment to a zero tolerance approach to Domestic Abuse.
- A clear definition of what 'Domestic Abuse' is, taking into account legislative changes and the new offences linked to non-physical abusive behaviors (with useful facts and figures).

- In line with new legislative guidance EA will provide clear examples of behavioral expectations and what consists unacceptable coercive behaviors
- Reporting procedures including roles, responsibilities and contact details of Human Resources, Line Managers, employees and Trade Union representatives where relevant.
- Information about the practical and supportive measures which can be accessed by employees that can be accessed, to support employees who have been affected by, or are at risk of, Domestic Abuse.
- A list of Domestic Abuse support services.
- A commitment to prioritize confidentiality where possible.
- A communication plan for the rollout of the policy to staff and incorporating the policy into line manager training.
- A process for monitoring and reviewing the policy on a regular basis.
- Define measures to deal effectively with perpetrators of Domestic Abuse among our workforce, as appropriate, and to challenge behaviours and attitudes through our awareness raising campaigns.

Support in the workplace will ensure staff are educated and aware of signposting organisations that provide specialist support to victims and those who are working with them or their family and friends. EA aim to use the workplace policy to offer such support and signposting. Further, EA will explore utilising and equipping in-house support via groups such as the Health and Wellbeing team and our Mental Health First Aiders to ensure staff experiencing distress have an immediate outlet for support in addition to their manager.

EA are also aware that home and work issues cannot always be separated and domestic abuse can impact greatly on the working life of the victim and that a person can continue to experience abuse in the workplace through, for example, abusive or threatening phone calls or emails and can be particularly vulnerable going to or from their place of work.

All of this can affect a staff member's performance, attendance, timekeeping, career prospects and job security. Bringing forward this policy should ensure that EA creates a safe and supportive environment for all staff.

If a member of staff is reported as being a perpetrator of domestic abuse EA will take all reasonable steps to address it in an appropriate manner.

EA will invoke disciplinary procedures against any employee who uses EA's time, property or other resources to abuse a partner or family member or to aid another to do so. EA will establish the facts of the case, in line with the requirements of the disciplinary procedure, before considering if disciplinary action is justified.

If a case is against a staff member is progressing through the criminal legal system, EA will follow relevant organisational disciplinary procedures.

EA will also:

- Require an employee who has a Non-molestation Order or Occupation Order in place against them, to declare this. This is enable a suitable risk assessment to be made and remedial support to be explored and monitored.
- Take action, as appropriate, to minimise the potential for a perpetrator to use his/her position or resources to find out the whereabouts, or other details, of his/her partner or ex-partner.

- Consider requests for time off to attend appropriate interventions, when perpetrators are seeking help to address their abusive behaviour.

In cases where both the perpetrator of domestic abuse and the victim are employed by EA, action will be taken to ensure that both the victim and the perpetrator do not come into contact in the workplace.