

Our Ref: AD/LK/jh/tg

1 June 2020

By Email Only: [Domesticabusebill@niassembly.gov.uk](mailto:Domesticabusebill@niassembly.gov.uk)

Christine Darrah  
Clerk to the Committee for Justice  
Room 242, Parliament Buildings  
Ballymiscaw, Stormont  
Belfast  
BT4 3XX

Dear Ms Darrah

**Re: The Domestic Abuse and Family Proceedings Bill**

Thank you for your letter of 7 May 2020 regarding the Domestic Abuse and Family Proceedings Bill.

As Chief Executive of Mid and East Antrim Borough Council, I welcome the opportunity to provide evidence on this very important matter. Mid and East Antrim Borough Council is committed through its Community and Corporate Plans to the promotion of 'Good Health and Wellbeing' and 'Community Safety and Cohesion' within the Borough.

I am sadly aware that, in every year since 2013/14, the PSNI has recorded over 2,000 incidents with a domestic abuse motivation within Mid and East Antrim. The increase in requests for support reported during the ongoing Covid-19 lockdown has served to highlight the need to protect such victims. Just this week, Refuge, the UK's largest domestic abuse charity, reported a startling weekly average increase of 66% in calls and a 950% rise in visits to their website compared to the pre-Covid period.

Please reply to:

■ **Head Office**  
The Braid  
1-29 Bridge Street  
Ballymena BT43 5EJ

□ **Ballymena Office**  
Ardeevin  
80 Galgorm Road  
Ballymena BT42 1AB

□ **Carrickfergus Office**  
Museum & Civic Centre  
11 Antrim Street  
Carrickfergus BT38 7DG

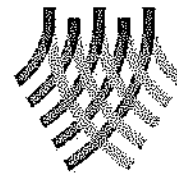
□ **Larne Office**  
Smiley Buildings  
Victoria Road  
Larne BT40 1RU

□ **Planning Office**  
County Hall  
182 Galgorm Road  
Ballymena BT42 1QL

Chief Executive  
Aine Donaghy

Tel: 0300 1245 000

[www.midandeantrim.gov.uk](http://www.midandeantrim.gov.uk)

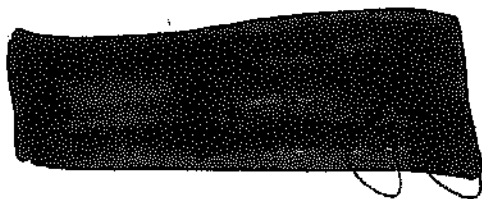


**Mid & East  
Antrim**  
Borough Council

I attach Council's response to the Call for Evidence. As a key civic leader and advocate for raising the profile of domestic and sexual violence in our borough, Council welcomes the Bill which will work to create better protection for our vulnerable constituents.

Please do not hesitate to contact me if you would like further detail on any of the content. I would also be pleased to present Council's position to the Committee for Justice if requested.

Yours sincerely



Anne Donaghy  
Clerk and Chief Executive

**Attached:** *Mid and East Antrim Borough Council Call for Evidence submission for the Committee for Justice - Domestic Abuse and Family Proceedings Bill - June 2020*

Please reply to:

■ **Head Office**  
The Braid  
1-29 Bridge Street  
Ballymena BT43 5EJ

□ **Ballymena Office**  
Ardeevin  
80 Galgorm Road  
Ballymena BT42 1AB

□ **Carrickfergus Office**  
Museum & Civic Centre  
11 Antrim Street  
Carrickfergus BT38 7DG

□ **Larne Office**  
Smiley Buildings  
Victoria Road  
Larne BT40 1RU

□ **Planning Office**  
County Hall  
182 Galgorm Road  
Ballymena BT42 1QL

Chief Executive  
Anne Donaghy

Tel: 0300 1245 000

[www.midandeastantrim.gov.uk](http://www.midandeastantrim.gov.uk)

**Committee for Justice**

**Call for Evidence - Domestic Abuse and Family Proceedings Bill**

**Submission prepared by: Anne Donaghy, Chief Executive**

**1. Introduction**

This submission provides Mid and East Antrim Borough Council's (Council) comments on the content of the Domestic Abuse and Family Proceedings Bill (the Bill), as requested by the Committee for Justice (the Committee).

Statistics show that domestic abuse is an important issue within the Mid and East Antrim Borough area. In particular:

- reported incidents of domestic abuse have increased by 44% over 10 years (from 2008/09 to 2018/19).
- in every year since 2013/14, the PSNI has reported over 2,000 incidents with a domestic abuse motivation within Mid and East Antrim. In 2018/19, this worked out at 16 incidents per 1,000 population per annum, slightly less than the figure of 17 for Northern Ireland as a whole.
- it is important to note that these are only the incidents that were reported to the police and is believed that the majority of incidents of domestic abuse go unreported.

Council is committed to the promotion of Good Health and Wellbeing and Community Safety and Cohesion within the borough through delivery of its Community and Corporate Plans. As a key civic leader and advocate for raising the profile of domestic and sexual violence in our borough, some examples of our recent work include the following.

- Through the Policing and Community Safety Partnership, Council funds:
  - o ONUS Safe Place training for their trainers to work with businesses; and
  - o a criminal justice worker who is a link between the PSNI and the victim going through the justice system.
- Council Staff sit on the Northern Domestic and Sexual Violence subgroup.
- Through our Human Resources department, we are involved in promoting Safe Borough, Safe Place and Safe Churches through the ONUS training programme.
- We promote the Here2Help app which was launched in February 2020. The app was developed to enable local residents to quickly access contact details for range of support services including domestic abuse resources.

The increase in requests for support reported during the ongoing Covid-19 lockdown has served to highlight the need to protect victims of domestic abuse. Council notes that the UK's largest domestic abuse charity, Refuge, has recently reported a weekly average increase of 66% in calls and a 950% rise in visits to their website compared

to the pre-Covid period<sup>1</sup>. Council therefore considers the Call for Evidence on this Bill to be very timely and welcomes the opportunity to contribute.

## **2. Comments on The Domestic Abuse and Family Proceedings Bill**

### **2.1 The 'Course of Abusive Behaviour' Clauses**

- 1. The domestic abuse offence*
- 2. What amounts to abusive behaviour*
- 3. Impact of behaviour on victim*
- 4. Meaning of behaviour etc.*

- Council welcomes the clear inclusion of psychological harm to the definition of the offence of domestic abuse in order to reinforce that domestic abuse does not simply include physical violence as so many believe. A clearer definition of the offence and what constitutes abusive behaviour may help a victim of abuse to identify what they are experiencing and at a much earlier stage than previous legislation may have accommodated.
- Council appreciates that the description of abusive behaviour is non-exhaustive, thereby remaining open to the court to determine whether an accused's behaviour was abusive on a case by case basis. As each relationship between connected persons is unique, Council feels that it stands to reason that the court should avoid applying a 'one rule fits all' approach when it comes to evaluating whether domestic abuse has occurred.
- Council notes that the definition of abusive behaviour in the Bill covers behaviour directed at an individual, their child or any other person where the purpose of the behaviour is to have certain effects on the victim. As it is frequently reported that cases of domestic abuse involve using children as 'weapons', it is welcome to see measures being taken to protect against this type of behaviour.
- The Committee has requested focus on 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.
- Clause 2 sets out the relevant effects on a person that can indicate that a behaviour is abusive. Council notes that this is intended to ensure that, for example, psychological abuse, or controlling or coercive behaviour that could not currently be prosecuted under existing offences, falls within the definition of abusive behaviour. To reiterate the point made above, Council welcomes the

---

<sup>1</sup> <https://www.refuge.org.uk/refuge-reports-further-increase-in-demand-for-its-national-domestic-abuse-helpline-services-during-lockdown/> accessed 28<sup>th</sup> May 2020

focus on psychological aspects of abuse and the inclusion of control, isolation, creating dependency, etc.

- Council welcomes clause 4 alongside clauses 1-3. Generally, this legislation addresses the gap left by previous legislation in that it is acting to remove the loopholes and leaving perpetrators of abuse much fewer technicalities to hide behind.

## **2.2 The 'Personal Connection' Clauses**

- 5. Meaning of personal connection*
- 6. Establishing connection by notice*
- 7. How notice is to be served*

- As these clauses are largely procedural, Council has no comment to add.

## **2.3 The 'Aggravating Factors' Clauses**

- 8. Aggravation where victim is under 18*
- 9. Aggravation where relevant child is involved*

- Council supports the clauses of the Bill which outline where the offence may become aggravated when the victim is under 18 or the perpetrator involves a child in carrying out the abuse, whether directly or indirectly and whether the child is a knowing or unwitting participant.
- Council is gladdened to note that subsection (2)(b) of clause 9 provides that the aggravation applies where a child sees, hears or is present during a single incident of the abuse which reflects zero tolerance in contrast to the definition of the abusive behaviour itself in clause 4(4) as being required on at least two occasions to constitute abuse. Council does not propose an amendment of the definition in clause 4(4) but enthusiastically supports the lower threshold when a child becomes involved.

## **2.4 The 'Applicable Rules and Penalty' Clauses**

- 10. Behaviour occurring outside the UK*

- Council applauds that this clause serves to bridge a gap in current legislation and protect those who find themselves experiencing domestic abuse when, for example, on holiday abroad or on honeymoon where it is common for initial instances of domestic abuse to occur.

- 11. Exception where responsibility for children*

- No comment to add.

#### *12. Defence on grounds of reasonableness*

- The Committee specifically requested focus on whether the 'reasonable' defence included in the legislation is framed appropriately and the intent of when it would apply is clear.
- Similarly to several other clauses within the Bill, this clause reads as a lesson learned from past experience. Council is encouraged to see learning and responsive change from the Department of Justice and feels this clause of the Bill, amongst others, reflects a true desire to protect the interests of the public. Council feels the intent behind the 'reasonableness defence' is very clear, does not strike as unfair or excessive and is sufficiently transparent to avoid manipulation or misinterpretation of its intended meaning.

#### *13. Alternative available for conviction*

- Council is supportive of the Bill providing this alternative to conviction as it prevents a perpetrator from escaping accountability for their actions should an incident or pattern of behaviours fall between sets of criteria.

#### *14. Penalty for the offence*

- The Committee has specifically requested focus on whether the penalties provided for in the Bill are appropriate and adequate.
- Council feels that the penalties provided in the Bill are appropriate and adequate by comparison to existing penalty guidelines in Northern Ireland for similar offences such as

- ASSAULT OCCASIONING ACTUAL BODILY HARM

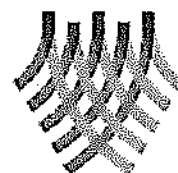
Indictment: 5 years imprisonment or an unlimited fine or both (for offences committed before 28 September 2004),

Or, 7 years imprisonment or an unlimited fine or both (for offences committed on or after 28 September 2004),

Summary: 12 months imprisonment or a fine not exceeding the prescribed sum (£5,000) or both.

- HARASSMENT CAUSING FEAR OF VIOLENCE

Indictment: 5 years imprisonment or an unlimited fine or both (for offences committed before 28 September 2004),



Or, 7 years imprisonment or an unlimited fine or both (for offences committed on or after 28 September 2004),

Summary: 6 months imprisonment or a fine not exceeding the prescribed sum (£5,000) or both.

- However, Council notes that all of the similar offences outline the possibility of an unlimited fine under indictment, whereas the penalty proposed in the Domestic Abuse and Family Proceedings Bill simply states, “on conviction on indictment, to imprisonment for a term not exceeding 14 years or a fine (or both)”. The penalty for Summary conviction consistently cites the statutory maximum fine of £5000 in both similar offences and this Bill. Therefore, Council would propose that clause 14(b) should be amended to reflect the possibility of an unlimited fine when convicted on indictment.

## **2.5 The ‘Sentencing Aggravation’ Clauses**

*15. Aggravation as to domestic abuse*

*16. What amounts to the aggravation*

*17. Exception regarding the aggravation*

- These clauses are procedural in nature and therefore Council has no comment to add.

## **2.6 The ‘Personal Connection’ Clauses**

*18. Meaning of personal connection*

*19. Establishing connection by notice*

*20. How notice is to be served*

- As these clauses are largely procedural, Council has no comment to add.

## **2.7 The ‘Criminal Cases Involving Domestic Abuse’ Clauses**

*21. No right to claim trial by jury*

*22. Special measures directions*

*23. Prohibition of cross-examination in person*

*24. Meaning of offence involving domestic abuse etc.*

- These amendments are varying in their technicalities however, they all aim to protect a victim from being exposed to their abuser whilst going through the court process.

- The Committee has requested focus on 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.
- Council agrees that the Bill serves to efficiently enhance the existing legislation in this area and promotes the welfare of the victim which aligns with Council's priorities in these matters. Council would also opine that these enhanced legislative provisions will improve the ability of the justice agencies to prosecute domestic abuse offenders due to victims feeling more confident to report incidents and testify when they feel safe in the knowledge they will not have to face their abuser across a court room.

## **2.8 The 'Guidance on criminal aspects of domestic abuse' Clause**

### *25. Guidance about domestic abuse*

- Council has no comment on this clause.

## **2.9 The 'Family Proceedings: Cross-examination' Clause**

### *26. Prohibition of cross-examination in person*

- The Committee has requested focus on 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. As is the case with clauses 21-24, Council would express that the Bill does serve to efficiently enhance the existing legislation in this area and promotes the welfare of the victim which would align with Council's priorities in these matters.
- Council feels that these amendments will have the same effect as clauses 21-24 in that these enhanced legislative provisions will improve the ability of the justice agencies to prosecute domestic abuse offenders due to victims feeling more confident to report incidents and testify when they feel safe in the knowledge they will not have to be cross examined by their abuser.
- The amendments also serve to close the gap which exists in current legislation by aligning this Bill's provisions with those already found in respect of cross examination in criminal proceedings.

## **2.10 Commencement and Short Title Clauses**

### *27. Commencement*

### *28. Short title*



Council has no comment in respect of these clauses.

### 3. Non-Legislative and Multi-Agency Approaches

- Committee has asked if there are 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.
- In the Department's Assembly briefing on 28th April 2020, it is noted that the Chief Constable of the Police Service of Northern Ireland expressed that he felt there was a legislative gap in respect of provisions for children who are present during incidents of domestic abuse. The Chief Constable cited the UK non-legislative solution of **Operation Encompass** and expressed that currently PSNI cannot, for example, contact a school to warn them that a child may not have their homework done, not have uniform, etc. due to an incident of domestic abuse as they could if they were an Operation Encompass partner. Council would be supportive for non-legislative approaches such as this which would go a long way to support the children and young people of Mid and East Antrim Borough.
- Council would be interested in the possible applications of '**Clare's Law**' as a non-legislative approach to tackling domestic abuse. '**Clare's Law**' started as a Domestic Violence Disclosure Scheme and was introduced as a guideline for police forces across the nation in 2014. The concept behind '**Clare's Law**' is to enable victims, or potential victims, of domestic abuse to find out about their partner's criminal history if they have reason to believe that they are at risk of suffering domestic abuse. The Scheme was introduced after 36-year-old Clare Wood was murdered by her ex-boyfriend, George Appleton on 2 February 2009. Clare had made numerous disclosures to the police over the months prior to her death, including reporting Mr Appleton for attempted rape and harassment. Clare was unaware that her former partner had an extensive criminal background, particularly relating to offences of domestic abuse. Currently, due to the sensitive information involved, disclosure is at the discretion of each police force. The UK's '**Domestic Abuse Bill**' which has been delayed due to Brexit proceedings, seeks to create a legal foothold for '**Clare's Law**' meaning that victims would have a legal right to check the offending history of their partner, and this would no longer be at the police force's discretion.
- Another non-legislative approach to tackling domestic abuse that Council would be keen to see would be **educational programmes** to raise awareness of what a healthy relationship looks like amongst children and young people. If awareness can be implemented from a young age this may help prevent young people from becoming victims and perpetrators alike.

- In the Assembly briefing of 28th April 2020, Dr Veronica Holland explained the multi-agency approach that was taken to develop the Bill. Council is supportive of multi-agency collaborations as it believes this creates a truer representation of the public's experiences and resulting support needs.
- Northern Ireland has a successful history implementing multi-agency approaches in this area. In 2012, the Department of Justice and the Department of Health, Social Services and Public Safety jointly published the '**Tackling Domestic and Sexual Violence and Abuse Action Plan**' for Northern Ireland. This marked the first time in the UK that a joint action plan had been published to deliver on the objectives first set out in the 2005 strategy '**Tackling Violence at Home**'.
- In 2014, the British Medical Association reported that the past decade has witnessed a number of non-legislative reforms aimed at tackling domestic abuse through more collaborative, multi-agency working. **Specialist Domestic Violence Courts (SDVCs)** were introduced in 2005, including a pilot in Derry, Northern Ireland, with the aim to make the court system more 'user friendly' by bringing together police, prosecutors, court staff, and the probation service to identify and track domestic abuse cases. The partners also worked with specialist support services for victims to ensure that witnesses, who may have felt vulnerable and intimidated, were supported throughout the court process.
- Feedback on the effectiveness of SDVCs was positive, particularly in relation to increasing the number of successful prosecutions. In 2005, 59% of overall domestic violence cases recorded by the Crown Prosecution Service led to convictions. By 2007/08 this figure had risen to 71% of cases tried in SDVCs.
- Another non-legislative shift saw the introduction of **Multi Agency Risk Assessment Conferences (MARACs)** in 2006/07. These were monthly meetings held between a range of statutory and voluntary agencies (such as the police, victim support agencies, probation, social services, housing and health services) with the aim of providing a coordinated response for high-risk victims (those at risk of murder or serious harm) of domestic abuse and their children. The meetings helped to ensure that all the agencies involved were communicating regularly about the case, that they were sharing information, and that safety plans were in place in order to lower the risks to the victim (and any children). Over 250 MARACs were operating across England, Wales and Northern Ireland, managing over 50,000 cases a year. Funding for MARACs came directly from the Home Office and was budgeted for until March 2015. The new Police and Crime Commissioners took over commissioning services for victims at a local level in 2013.
- These historical, multi-agency approaches have proven to be effective and mirror the aim of the Bill in that the goal was to support victims when going through the court process, which in turn results in higher levels of reporting and prosecution.

Council has experienced its own success of multi-agency working via the Support Hubs and would encourage the Department to maintain any momentum it may have gathered with its initial multi-agency development approach and continue with it to develop non-legislative, support solutions for victims.

#### **4. Rural Considerations**

- Council notes that the Department of Justice, in carrying out its Rural Needs Impact Assessment, observed that although not a barrier, the context of the rural environment in which a potential victim and perpetrator live will have relevance with regards to the offence, and its potential impact. For example, a victim's social isolation may be compounded by their geographical isolation, particularly where abuse may include control of access to a car, money or checking mileage.
- In 2019, the National Rural Crime Network (the NRCN) reported the following key findings :
  - Abuse lasts, on average, 25% longer in the most rural areas;
  - The policing response is largely inadequate;
  - The more rural the setting, the higher the risk of harm;
  - Rurality and isolation are deliberately used as weapons by abusers;
  - Close-knit rural communities facilitate abuse;
  - Traditional, patriarchal communities control and subjugate women;
  - Support services are scarce - less available, less visible and less effective;
  - Retreating rural resources make help and escape harder;
  - The short-term, often hand-to-mouth funding model has created competing and fragmented service provision; and
  - An endemic data bias against rural communities leads to serious gaps in response and support.
- Although the NRCN's jurisdiction covers England and Wales, it is likely that their findings are reflected here in Northern Ireland where we also have a significant rural aspect to our communities.
- The Department of Justice assure that the context of domestic abuse in a rural setting will be recognised and referenced in the guidance and training associated with the offence for police and prosecutors. This is of particular importance to our constituents given that Mid and East Antrim Borough has an extensive rural community. These considerations create a further gratitude for the protections offered within this Bill.

#### **5. Conclusion**

- Several people in the UK have recently lost their lives to domestic abuse as a result of being confined to their home with their abuser. It is with our deepest

sympathies, and determination to prevent further tragedies, that Mid and East Antrim Borough Council wholeheartedly supports the work of the Department of Justice in developing and presenting this Bill.

- Council applauds that the Bill recognises the experience of victims, the repetitive nature of abusive behaviour and the potential cumulative effect of domestic abuse.
- Council supports that the Bill will recognise in law that domestic abuse is often a course of behaviour which takes place over a period of time and by enabling a range of domestic abuse incidents to be prosecuted as a single course of behaviour within a new offence, the criminal law will better reflect how victims actually experience such abuse.
- Council endorses that the Bill will ensure that a course of behaviour of entirely non-physical abuse is criminalised and supports that the Bill recognises the adverse effect abuse can have on children by including aggravations to the domestic abuse offence, enabling the sentencing to be increased up to the maximum available.
- Overall, Council feels that the Bill presents a piece of legislation developed from learned experience. It is very clear, alongside the Department's explanatory briefing document, that the Bill has been written to ensure clarity and to prevent recurrence of previous exploitation of statutory ambiguity.
- Mid and East Antrim Borough Council would like to take this opportunity to welcome this new statutory progression which will work to create better protection for our constituents who may find themselves at their most vulnerable. We would hope that the introduction of these new measures would encourage those experiencing domestic abuse to come forward, feeling confident that they would receive the correct acknowledgement and support. Council looks forward to promoting this further protection as soon as the legislation is enacted.