

## South Eastern DSVP

### ▪ **DOMESTIC ABUSE AND FAMILY PROCEEDINGS BILL CONSULTATION**

The SE area Domestic & Sexual Violence and Abuse Partnership welcomes the opportunity to participate in this important consultation. The subject matter impacts on the daily lives of many adults and children from pre-birth to old age and the Partnership has a vital role in providing services and support to victims/survivors and perpetrators of domestic and sexual abuse resident within the Trust's geographical boundary.

The Partnership brings together all agencies, organisations and interested parties working to tackle domestic and sexual violence with the purpose of raising awareness, developing and delivering a high quality, co-ordinated, multi-agency response.

### ▪ **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 SE area Domestic & Sexual Violence and Abuse Partnership welcomes the Domestic Abuse and Family Proceedings Bill and believe it will significantly enhance the PPS's ability to hold perpetrators of DV to account. Making Domestic Abuse an offence will enable more targeted prosecutions for this prevalent form of Abuse. However there is still a gap in legislation with regard to Stalking and we would recommend that this is included in the Bill as a crime however we recognise your commitment to advance separate legislation with regard to this. Research highlights that Stalking is a factor in more than 90% of domestic homicides so it would be a serious omission not to have legislation in place to address this aspect of DV.

We are concerned that a mitigation of "rough sex gone wrong" appears to be increasingly used in Domestic Homicides to explain a death and this needs to be challenged. Acts of non-fatal strangulation are explained as consensual acts and yet women are predominantly the victims and held responsible for the behaviour of the men they are in a relationship with. This is unacceptable and needs to be addressed.

Child Contact where parents have separated and DV is an issue warrants closer attention in legislation. In NI there is a presumption of contact and direct contact is mandated by the Court with the abusing parent without taking adequate cognisance of the quality and purpose of contact can serve the continuous facilitation of the abuse. Assessments co-ordinated by family & child care social workers should mitigate against this and ensure ongoing contact is to promote a positive bond between a child and parent and not to facilitate ongoing coercive control and abuse.

We also believe that a Domestic Abuse Commissioner should be appointed to oversee the implementation of the Bill in NI. Domestic Violence and Abuse is very prevalent here as in other parts of the world and knows no boundaries in term of class, race, culture, age of victims and perpetrators and has a long-term impact on victims and their children's emotional and physical well-being. A Commissioner would have an Independent leadership role in tackling Domestic Abuse across all government departments holding statutory, voluntary and community groups accountable in ensuring everyone plays an active part in redressing this societal scourge which is growing year on year.

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

The majority of victims will highlight the pernicious and long-term impact of psychological harm on their well-being and on their children and this has not previously been recognised in law. Awareness -raising re coercive control has been on-going across NI over the past few years and encapsulates the essence of the psychological harm synonymous with DV however the term is somewhat hidden in the Bill. There is significant research to highlight that coercive control correlates significantly with serious harm and femicide and we believe the term should be referenced or highlighted more within the Bill and subsequent guidance. The term "gas-lighting" should also be referenced both within the Bill and guidance given it is another term synonymous with psychological manipulation and harm. It helps capture the essence of domestic abuse where the victim questions their own memory, perception or judgement often evoking in them cognitive dissonance and

making them believe they are going mad thus weakening their self-esteem and resilience.

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

Gathering evidence of psychological harm may prove difficult to gather and warrants awareness raising and training with input from specialist prosecutors to DV support services. The use of technology is on the increase resulting in cyber stalking alongside physical stalking and greater education regarding methodologies of usage need to be understood if victims and support services are to understand vulnerabilities and ways to maximise protection from same.

Prohibiting those accused of DV offences of cross-examining their alleged victims is very much welcomed but needs to be extended to direct cross-examination in any family proceedings matter where DV and abuse are being determined. Direct cross examination by an alleged abuser can only serve to be more abusive to the alleged victim and the alternative of appointing a solicitor to fulfil the role enables the court to be “balanced” and “equitable” to both parties.

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

Clause 12 – defence of reasonableness is a concern as we believe it will be used by perpetrators to manipulate victims and to explain their actions as justifiable. For eg many vulnerable victims self-medicate using alcohol/prescription drugs to help them cope with the circumstances they find themselves in and we believe this clause will create greater difficulties and prove as a hindrance in tackling DV & Abuse. It will give abusers a “let out” clause and this is dangerous.

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

We remain concerned that sentencing for murder of a partner incurs a lesser sentence than murders not domestically motivated. This warrants further exploration and consideration.

We welcome the introduction of statutory and child aggravators and that children are being recognised as victims and not just witnesses to DV as this belies the serious psychological harm to children who live with DV. It is therefore welcomed that abusers will incur an increased sentence where offences are committed in the presence of a child (ren).

- **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**

As referenced earlier legislation to tackle Stalking both off and online needs to be strengthened. We would also recommend that a register of Stalkers and Domestic Abusers is established similar to the Sex offenders register. A greater emphasis is required on monitoring this cohort of perpetrators so that they are held accountable for their actions and we redress the imbalance of expecting victims to protect themselves. Hard targets for reducing DV need to be established which includes working with perpetrators to help them stop using violence and abuse. The PPANI arrangements do monitor the majority of perpetrators subject of VOPO's but this is quite limited with a focus on those convicted of AOABH.

We also need to have a greater focus on young people who use violent and aggressive behaviour within their families or with peers as there is much research to show that violent tendencies start and escalate in adolescence and therefore such behaviour needs tackled more robustly at an earlier age

Initiatives such as Operation Encompass are to be welcomed as it enables an earlier response to Domestic abuse within families. It ensures a more proactive response from education and raises awareness among the public that DV is wrong and extremely detrimental to family life and to individual's well-being. There is a direct correlation between alcohol/drug misuse, poor mental health and suicide as a

consequence of domestic abuse and a cross-cutting, inter-departmental response is a must. Projects like Operation Encompass will facilitate a greater awareness of what domestic abuse is and enable potential victims to recognise the indicators of unhealthy, abusive relationships earlier and empower them to seek support sooner. This will also enable society to talk more openly about DV. Programmes such as Helping Hands continue to be rolled out and will complement Operation Encompass and other programmes such as the NSPCC'S Keeping Safe Schools project to build children's resilience to recognise DV and speak out thus receiving essential support much earlier.

In summary the SE area Domestic & Sexual Violence and abuse Partnership welcomes the Bill although recognises its contents focus very much on a justice response to tackling DV. More responsibility needs to be placed on other government departments alongside voluntary, statutory and community groups to ensure a more rounded societal response is achieved. An Independent DV Commissioner will assist in driving this agenda forward and ensure greater accountability in compliance with agreed targets. The issue of funding warrants more attention as real sustained change cannot be achieved on goodwill alone.

A training needs analysis will be required to ensure relevant agencies/services and the Judiciary are fully aware of the contents of the Bill and what this means for service delivery and the Safeguarding of Children and Adults.