



## **Consortium for the Regional Support for Women in Disadvantaged and Rural Areas**

### **Response to: Domestic Abuse and Family Proceedings Bill**

**Issued by: Committee for Justice**

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# Justice Committee

## Call for Evidence: Domestic Abuse and Family Proceedings Bill

### 1.0 Introduction

This response has been made by members of the Consortium for the Regional Support for Women in Disadvantaged and Rural Areas (hereafter, the Women's Regional Consortium), which is funded by the Department for Communities and the Department of Agriculture, Environment and Rural Affairs in Northern Ireland.

The Women's Regional Consortium in Northern Ireland consists of seven established women's sector organisations that are committed to working in partnership with each other, government, statutory organisations and women's organisations, centres and groups in disadvantaged and rural areas, to ensure that organisations working for women are given the best possible support in the work they do in tackling disadvantage and social exclusion. The seven groups are as follows:

- Training for Women Network (TWN)
- Women's Resource and Development Agency (WRDA)
- Women's Support Network (WSN)
- Northern Ireland Rural Women's Network (NIRWN)
- Women's TEC
- Women's Centre Derry
- Foyle Women's Information Network (FWIN)

The Women's Regional Consortium is the established link and strategic partner between government and statutory agencies and women in disadvantaged and rural

areas, including all groups, centres and organisations delivering essential frontline services, advice and support.

The Women's Regional Consortium ensures that there is a continuous two-way flow of information between government and the sector. It also ensures that organisations/centres and groups are made aware of consultations, government planning and policy implementation. In turn, the Consortium ascertains the views, needs and aspirations of women in disadvantaged and rural areas and takes these views forward to influence policy development and future government planning, which ultimately results in the empowerment of local women in disadvantaged and rurally isolated communities.

The Women's Regional Consortium appreciates the opportunity to respond to the Committee on this issue which is so critical and important in improving the lives of domestic violence victims in Northern Ireland. This submission is made on the back of our previous submission to the Department of Justice's consultation in 2016.<sup>1</sup> Women's Regional Consortium members are also part of the Women's Policy Group<sup>2</sup> alongside our colleagues in the Women's Aid Federation Northern Ireland. We fully endorse the submission made by Women's Aid and the Women's Policy Group and are in agreement with their suggestions and recommendations in relation to the Bill and further actions which need to be taken.

## **2.0 General Comments**

It is clear from police statistics that domestic abuse in Northern Ireland is both persistent and escalating. Domestic abuse incidents and crimes have tended to increase each year since 2004/05 reaching their highest levels in 2018/19.<sup>3</sup> Police

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<sup>1</sup> Response to: Domestic Abuse Offence and Domestic Violence Disclosure Scheme – a Consultation, Women's Regional Consortium, April 2016  
<http://www.womensregionalconsortiumni.org.uk/sites/default/files/Final%20DOJ%20d%20%20abuse%204%2016.pdf>

<sup>2</sup> The Women's Policy Group Northern Ireland is made up of women from trade unions, grassroots women's organisations, women's networks, feminist campaigning organisations, LGBT+ organisations, support service providers, human rights and equality organisations and individuals

<sup>3</sup> Trends in Domestic Abuse Incidents and Crimes Recorded by the Police in Northern Ireland 2004/05 to 2018/19, PSNI, November 2019

respond to a domestic incident every 17 minutes of every day and domestic violence accounted for 16% of all crime reported to the PSNI.<sup>4</sup> Northern Ireland has the second highest femicide rate in Western Europe and the highest rate for the UK.<sup>5</sup>

The negative impacts of intimate partner violence and abuse vary from case to case but the impacts are often multi-dimensional including physical, psychological, emotional and financial. The effects are often also intergenerational and can be long term.

Research shows strong links between domestic violence and poor mental health with one in four women reporting they had attempted to take their own life and one in two reporting suicidal thoughts.<sup>6</sup> Witnessing domestic abuse can have huge impacts on children's physical and emotional wellbeing with negative implications for their ability to engage in society and to reach their full potential.<sup>7</sup> Research argues that for the significant number of children living with domestic violence the experience is often traumatic and the consequences in both the immediate and longer term are significant for the majority of these children.<sup>8</sup>

The women's sector has spent many years calling for adequate domestic abuse legislation in Northern Ireland. Given the increases in domestic abuse statistics, the impact on victims and the implications of the Coronavirus pandemic it has never been more urgent to put effective legislation in place. We welcome the gender-neutral language in the Bill using the terms victims and perpetrator. We

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<https://www.psni.police.uk/globalassets/inside-the-psni/our-statistics/domestic-abuse-statistics/2018-19/domestic-abuse-incidents-and-crimes-in-northern-ireland-2004-05-to-2018-19.pdf>

<sup>4</sup> Women's Aid Federation Northern Ireland Annual Report 2018-19

<http://www.womensaidni.org/assets/uploads/2020/01/A4-Womens-Aid-Annual-Report-2018-19.pdf>

<sup>5</sup> Does Northern Ireland have the highest femicide rate in Western Europe?, FactCheckNI, November 2019

<https://factcheckni.org/fact-checks/does-northern-ireland-have-the-highest-femicide-rate-in-western-europe/>

<sup>6</sup> Intimate Partner Violence in Conflict and Post-Conflict Societies, Jessica Leigh Doyle and Monica McWilliams, Ulster University, May 2018

[https://pure.ulster.ac.uk/ws/portalfiles/portal/12657575/Intimate\\_Partner\\_Violence\\_in\\_Conflict\\_and\\_Post\\_Conflict\\_Societies\\_Insights\\_and\\_Lessons\\_from\\_Northern\\_Ireland.pdf](https://pure.ulster.ac.uk/ws/portalfiles/portal/12657575/Intimate_Partner_Violence_in_Conflict_and_Post_Conflict_Societies_Insights_and_Lessons_from_Northern_Ireland.pdf)

<sup>7</sup> Ibid

<sup>8</sup> Research Review: The Impact of Domestic Violence on Children, Devaney J, Queen's University Belfast, 2015

[https://pureadmin.qub.ac.uk/ws/files/17369087/Research\\_review\\_impact\\_of\\_domestic\\_violence\\_on\\_children.pdf](https://pureadmin.qub.ac.uk/ws/files/17369087/Research_review_impact_of_domestic_violence_on_children.pdf)

acknowledge that men are also victims of domestic violence and that any legislation must protect and support all victims. However statistics show that women remain overwhelmingly the majority of the victims of this violence.<sup>9</sup>

### *COVID-19*

In tandem with the global health crisis as a result of COVID-19 there has been a surge in domestic violence reports since lockdown measures were introduced. The weekly number of domestic abuse calls received has been consistently higher than the weekly average since the week beginning 1st April 2020 (the weekly average number of domestic abuse calls received by police is 570). In the 7 days from 27<sup>th</sup> May to 2<sup>nd</sup> June the number of domestic abuse calls was 720, 80 higher than the previous 7 days and the second highest weekly level since lockdown measures were introduced.<sup>10</sup> Tragically there have also been three domestic killings in Northern Ireland since the start of the lockdown.<sup>11</sup>

This increase is happening at a time of reduced capacity of service providers to cope with the increased demand. Women are locked in with their abusers and isolated from the people and resources that can help them.

### *Legacy of the conflict and gender-based violence*

In Northern Ireland there are known links between the conflict (and the legacy of this conflict) and the nature, prevalence and non-reporting of this type of violence.<sup>12</sup> A research study<sup>13</sup> has shown that the peace process has made a huge difference including reducing the threat of firearms in domestic violence situations, lessening

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<sup>9</sup> During 2018/19 69% of all domestic abuse crime victims were female and 31% were male  
<https://www.psni.police.uk/globalassets/inside-the-psni/our-statistics/domestic-abuse-statistics/2018-19/domestic-abuse-incidents-and-crimes-in-northern-ireland-2004-05-to-2018-19.pdf>

<sup>10</sup> Domestic Abuse Calls Received by Police in Northern Ireland, PSNI & NISRA, June 2020  
<https://www.psni.police.uk/globalassets/inside-the-psni/our-statistics/domestic-abuse-statistics/covid-19/domestic-abuse-calls-to-02.06.20.pdf>

<sup>11</sup> <https://www.bbc.co.uk/news/uk-northern-ireland-52440662>

<sup>12</sup> Advancing Gender Equality in Northern Ireland: Addressing Domestic Violence and Human Rights Protections for Women, Professor Monica McWilliams and Professor Fionnuala Ní Aoláin, Ulster University, 2014  
[http://www.niassembly.gov.uk/globalassets/documents/raise/knowledge\\_exchange/briefing\\_papers/series4/briefing-monica-mcwilliams-and-fionnuala-ni-aolain.pdf](http://www.niassembly.gov.uk/globalassets/documents/raise/knowledge_exchange/briefing_papers/series4/briefing-monica-mcwilliams-and-fionnuala-ni-aolain.pdf)

<sup>13</sup> Intimate Partner Violence in Conflict and Post-Conflict Societies, Jessica Leigh Doyle and Monica McWilliams, Ulster University, May 2018  
[https://pure.ulster.ac.uk/ws/portalfiles/portal/12657575/Intimate\\_Partner\\_Violence\\_in\\_Conflict\\_and\\_Post\\_Conflict\\_Societies\\_Insights\\_and\\_Lessons\\_from\\_Northern\\_Ireland.pdf](https://pure.ulster.ac.uk/ws/portalfiles/portal/12657575/Intimate_Partner_Violence_in_Conflict_and_Post_Conflict_Societies_Insights_and_Lessons_from_Northern_Ireland.pdf)

the impact of paramilitary connections to threaten partners and post conflict, police officers have become more responsive to domestic violence. However while the study recognises the progress over the last 25 years it also recognises that there is still work to be done and recommended the introduction of legislation on coercive control. The study suggested other measures including *“additional training for service providers on indicators of coercive control, and public awareness campaigns to increase awareness alongside curriculum-based education on psychological abuse and control.”*<sup>14</sup>

### *Gender inequality and gender-based violence*

The relationship between gender and intimate partner violence is multi-layered and complex. Research suggests that gender inequality in terms of power, status, financial independence and the division of labour can be a major factor underlying this type of violence and has impacts for non-reporting of this crime: *“gender inequalities increase the risk of violence by men against women and inhibit the ability of those affected to seek protection.”*<sup>15</sup>

A further study<sup>16</sup> shows how intimate partner violence (IPV) is linked to the limited participation of women in society. The findings show how conservative views in a society which stigmatises women and classifies IPV as a private family issue presents a significant barrier to getting help for and/or leaving violent relationships. It suggests that *“policy measures to address IPV should take account of this, and education, public awareness campaigns and training for service providers should take a gender sensitive approach which seeks to tackle gender stereotypes/norms.”* Government action in this area must therefore be within the context of the wider debate on structural gender inequality in society at large.

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<sup>14</sup> Ibid

<sup>15</sup> Violence prevention the evidence, Promoting gender equality to prevent violence against women, WHO, Geneva, 2009

[https://www.who.int/violence\\_injury\\_prevention/violence/gender.pdf](https://www.who.int/violence_injury_prevention/violence/gender.pdf)

<sup>16</sup> Intimate Partner Violence in Conflict and Post-Conflict Societies, Jessica Leigh Doyle and Monica McWilliams, Ulster University, May 2018

[https://pure.ulster.ac.uk/ws/portalfiles/portal/12657575/Intimate\\_Partner\\_Violence\\_in\\_Conflict\\_and\\_Post\\_Conflict\\_Societies\\_Insights\\_and\\_Lessons\\_from\\_Northern\\_Ireland.pdf](https://pure.ulster.ac.uk/ws/portalfiles/portal/12657575/Intimate_Partner_Violence_in_Conflict_and_Post_Conflict_Societies_Insights_and_Lessons_from_Northern_Ireland.pdf)

There is currently no Gender Equality Strategy in place for Northern Ireland, the last one running out in 2016.<sup>17</sup> A review<sup>18</sup> of this Strategy indicated that over 70% of the cross-departmental outcomes were not achieved. It is clear that the impact of Government efforts to address this gender inequality have proved to be limited. Much more needs to be done to improve gender equality given the research which shows gender inequality as a fundamental driver of intimate partner violence and abuse.

There are some commitments in the 'New Decade, New Approach'<sup>19</sup> document to deliver equality-based strategies including a Gender Strategy and also to address the Gillen Review recommendations. It is important that these commitments are followed through with effective and adequately funded Strategies to ensure that real change can take place.

### *CEDAW*

Government has obligations under the UN Convention on the Elimination of All forms of Discrimination Against Women (CEDAW). CEDAW's General Recommendation 35<sup>20</sup> states that gender-based violence against women:

*“takes multiple forms, including acts or omissions intended or likely to cause or result in death or physical, sexual, psychological or economic harm or suffering to women, threats of such acts, harassment, coercion and arbitrary deprivation of liberty.”*

General Recommendation 35<sup>21</sup> provides for a number of general legislative measures that the Committee recommends that State parties implement:

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<sup>17</sup> A Gender Equality Strategy for Northern Ireland 2006 – 2016

[https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm\\_dev/gender-equality-strategy-2006-2016.pdf](https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/gender-equality-strategy-2006-2016.pdf)

<sup>18</sup> Gender Equality Strategy 2006 – 2016 Review, OFMDFM & NISRA, April 2013

[https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm\\_dev/gender-equality-strategy-2006-2016-review.pdf](https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/gender-equality-strategy-2006-2016-review.pdf)

<sup>19</sup> New Decade, New Approach, January 2020

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/856998/2020-01-08\\_a\\_new\\_decade\\_a\\_new\\_approach.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/856998/2020-01-08_a_new_decade_a_new_approach.pdf)

<sup>20</sup> General recommendation No.35 on gender-based violence against women, updating general recommendation No.19, CEDAW/C/GC/35, July 2017

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CEDAW/C/GC/35&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CEDAW/C/GC/35&Lang=en)

<sup>21</sup> Ibid, para 29

*“Ensure that all forms of gender-based violence against women in all spheres, which amount to a violation of their physical, sexual or psychological integrity, are criminalized and introduce, without delay, or strengthen, legal sanctions commensurate with the gravity of the offence, as well as civil remedies.”*

*“Ensure that all legal systems, including plural legal systems, protect victims/survivors of gender-based violence against women and ensure that they have access to justice and to an effective remedy, in line with the guidance provided in general recommendation No. 33.”*

In its Concluding Observations for the UK Government the CEDAW Committee welcomed the adoption of measures to combat violence against women and girls in England, Wales and Scotland but were *“concerned about the lack of uniform protection of women and girls from all forms of gender-based violence across the jurisdiction of the State party, noting with particular concern the inadequacy of laws and policies to protect women in Northern Ireland.”*<sup>22</sup> CEDAW recommends that the UK *“Adopt legislative and comprehensive policy measures to protect women from all forms of gender-based violence throughout the State party’s jurisdiction including Northern Ireland.”*<sup>23</sup>

### *Istanbul Convention*

The Council of Europe Convention on preventing and combating violence against women and domestic violence (the ‘Istanbul Convention’) condemns all forms of violence against women and domestic violence. One of the stated purposes of the Convention is to *“protect women against all forms of violence, and prevent, prosecute and eliminate violence against women and domestic violence.”* The Convention recognises that women and girls are exposed to a higher risk of gender-based violence than men.

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<sup>22</sup> Concluding observations on the eighth periodic report of United Kingdom of Great Britain and Northern Ireland, Committee on the Elimination of Discrimination Against Women, Para 29 [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fGBR%2fCO%2f8&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fGBR%2fCO%2f8&Lang=en)

<sup>23</sup> Ibid, Para 30(b)



The UK government is committed to ratifying the Convention. Article 40 of the Istanbul Convention states: *“Parties shall take the necessary legislative or other measures to ensure that any form of unwanted verbal, non-verbal or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment, is subject to criminal or other legal sanction.”*<sup>24</sup>

### *Commission on the Status of Women*

The Commission on the Status of Women (CSW) is a UN Commission dedicated to the promotion of gender equality and the empowerment of women. In March 2019 it concluded its 63<sup>rd</sup> session with a strong commitment by UN Member States to safeguard and improve women’s and girls’ access to social protection systems, public services and sustainable infrastructure.

The Commission urged governments to bear in mind: *“the importance of all women and girls living free from violence, such as sexual and gender-based violence, including sexual harassment, domestic violence, gender-related killings, including femicide, as well as elder abuse,”*<sup>25</sup>

As part of the Commission’s call to governments to take action to strengthen normative, legal and policy frameworks it urged governments to: *“Ensure that social protection, public services and sustainable infrastructure contribute to efforts to eliminate, prevent and respond to all forms of violence against women and girls in public and private spaces, through multisectoral and coordinated approaches to investigate, prosecute and punish the perpetrators of violence against women and girls and end impunity”*<sup>26</sup>

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<sup>24</sup> Council of Europe Convention on preventing and combating violence against women and domestic violence

<https://www.coe.int/fr/web/conventions/full-list/-/conventions/rms/090000168008482e>

<sup>25</sup> Social protection systems, access to public services and sustainable infrastructure for gender equality and the empowerment of women and girls, Agreed Conclusions, Commission on the Status of Women, March 2019, Para 47(h)

<https://undocs.org/en/E/CN.6/2019/L.3>

<sup>26</sup> Ibid, Para 47(h)

### *Gillen Review*

In May 2019 Judge Gillen published his report into the law and procedures in serious sexual offences in Northern Ireland.<sup>27</sup> This major review into how serious sexual crimes are handled by the judicial system has some obvious areas of overlap with domestic abuse and a number of the key recommendations from this Review will be applicable to domestic abuse case also.

There are many similarities between rape/serious sexual assault cases and domestic abuse cases with both being difficult to prosecute. There are similar problems in taking domestic abuse cases including long delays, low conviction rates, victims disengaging from the process, secondary victimisation by criminal justice agencies, etc. Included in the Gillen recommendations was training for all levels/agencies of the criminal justice system. We believe that this is also crucially important for domestic abuse cases. Training is needed on the nature and context of domestic abuse and to help to ensure that victims feel listened to, believed and supported through the process.

### *Raise Your Voice*

WSN is proud to be a partner in the 'Raise Your Voice' project<sup>28</sup> alongside our colleagues in the Women's Resource & Development Agency (WRDA), Reclaim the Agenda and the Northern Ireland Rural Women's Network (NIRWN). Raise Your Voice is a project to tackle sexual harassment and sexual violence across Northern Ireland. This endemic problem will be approached in a variety of ways through working directly with the community, increasing public awareness, educating organisations on best practice and lobbying for legislative advances in this area.

Raise Your Voice was funded by the Rosa Fund for Women & Girls and Time's Up UK. It was launched in August 2019 and provides workshops on sexual harassment and violence. The goal of the project is to create true cultural change in order to tackle the root causes of these behaviours and empower people to act to change this

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<sup>27</sup> Report into the law and procedures in serious sexual offences in Northern Ireland, Gillen Review, May 2019

<https://www.justice-ni.gov.uk/sites/default/files/publications/justice/gillen-report-recommendations.pdf>

<sup>28</sup> <https://www.raiseyourvoice.community/>

in their own lives and communities. In Year 1 the project will work with women, girls and non-binary people and in Year 2 the project will work with men and boys.

This project is doing vital work in local communities to raise awareness and to educate people on how to identify, challenge and prevent this type of behaviour. We believe that this type of work is invaluable in addressing the issue of sexual harassment and sexual violence.

We would like to see this type of community-based work developed and adequately resourced so that it can support and complement laws on domestic violence. This type of work is crucial in educating, informing and in preventing sexual violence. As previously outlined any new legislation is only as good as the knowledge, training and education around it and we believe that projects such as Raise Your Voice are crucial in helping to achieve this among the general public and service providers.

### **3.0 Specific Comments – Bill Clauses**

#### **Clauses 1 – The domestic abuse offence & Clause 2 – What amounts to abusive behaviour**

The Women's Regional Consortium welcomes the definition of the domestic abuse offence and what amounts to abusive behaviour.

#### **Clause 9 – Aggravation where relevant child is involved**

We particularly welcome the addition of the aggravating factor for children. Given the research that exists about the significant impacts of domestic violence on children we believe this is an important inclusion.

#### **Clause 12 – Defence on grounds of reasonableness**

The Women's Regional Consortium is very concerned about the 'reasonableness defence' and suggests that this should be removed from the legislation. Our main

concern is for those who have disabilities either with their physical or mental health and those with addictions. Victims of domestic abuse often experience higher rates of alcohol and drug addiction and mental health issues such as depression which is often a coping mechanism for their domestic abuse experience.

If it is determined that this defence should remain in the legislation we suggest that this clause should be very explicit in outlining the limited circumstances where it can be applied. This would ensure that this clause is not subject to too much interpretation or overly subjective and go some way to ensuring that it cannot be used as a defence by perpetrators of domestic abuse.

#### **Clause 14 – Penalty for the offence**

The Women's Regional Consortium welcomes the penalties outlined in the Bill for the offence. We welcome the high level of sentencing possible for these crimes which can help to act as a deterrent. This is particularly important in domestic abuse crimes where there are high levels of recidivism.

It is often the view that perpetrators of domestic abuse get light or suspended sentences. District Judge Barney McElholm speaking at Derry Magistrate's Court<sup>29</sup> called for tougher sentencing in domestic violence cases. This followed the sentencing of a man who pleaded guilty to assaulting his ex-girlfriend and another woman and who was given an 8 month jail sentence for punching a table and was jailed for 5 months for assaulting the women. There is clearly something wrong if violence towards a woman attracts less of a sentence than violence towards an inanimate object.

We believe it is important that there is a higher level of sentencing for these crimes. The fact that domestic violence crimes are punished severely sends a powerful message that society will not tolerate this behaviour and when it does happen it will

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<sup>29</sup> <https://www.bbc.co.uk/news/uk-northern-ireland-foyle-west-43153778>

be dealt with more harshly. It is also important for victims as they understand that this is a serious crime and that the criminal justice system will treat it as such.

### **Clause 22 – Special measures directions**

Our colleagues in Women's Aid have stated that many of the women who use their services hear about special measures for the first time from Women's Aid. Victims must be made aware that they can avail of special measures when going to court and this information should be delivered consistently by an agency of the criminal justice system.

However it is not just about providing information about special measures these must actually be put in place when requested by a witness. Many women arrive at court to find that the special measures they were promised have not been made available.

### **Clause 25 – Guidance about domestic abuse**

This clause states that the Department of Justice may issue guidance about domestic abuse. The Women's Regional Consortium would like to see the involvement of voluntary sector organisations who work with domestic abuse victims involved in the drafting of these guidelines.

### **Clauses 23 & 26 – Prohibition of cross-examination in person**

The Women's Regional Consortium welcomes the provisions to ban cross examination of victims by unrepresented perpetrators in court. Allowing this to happen has helped to perpetuate the abuse victims have experienced, hindered their ability to give evidence and caused great trauma and distress.

### 3.1 Specific Comments - Questions

- **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**

We welcome the urgency with which the Minister for Justice Naomi Long has re-introduced this legislation and her stated commitment to ensuring victims of domestic abuse are afforded the proper protection. However as this legislation is now over three years old we support the calls made by our colleagues in Women's Aid NI for a number of issues to be addressed.

We note the gaps between this Bill and the protections afforded to victims of domestic violence in Northern Ireland compared to England and Wales through the draft Westminster Domestic Abuse Bill. These gaps include:

- the provision of guidelines to employers on recognising the signs of abusive behaviour
- the introduction of a Domestic Abuse Commissioner
- powers to deal with domestic abuse including the introduction of domestic abuse protection orders and notices
- grant of secure tenancies in cases of domestic violence
- safer family court and child contact system.

The Women's Regional Consortium supports the view of the Women's Aid Federation Northern Ireland that women experiencing domestic violence and abuse should have equal protections across the UK and their geographic location should not impact their recourse to justice. There is a need to ensure equal protection of victims and survivors across the UK.

The rest of this submission details many of the approaches that the Women's Regional Consortium believes is necessary to tackle domestic abuse in Northern Ireland.

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

The Women's Regional Consortium welcomes the definition of the offence and the definition of abusive behaviour. These definitions mirror the legislation in GB which is helpful in ensuring standardisation of approach. However it must be noted that in the UK domestic abuse legislation is accompanied by Strategies and Action Plans which help to support the legislation and many of these do not exist for Northern Ireland.

Our colleagues in Women's Aid have been highlighting the lack of a Violence Against Women and Girls (VAWG) Strategy for Northern Ireland. Northern Ireland has no specific VAWG Strategy despite other parts of the UK including Scotland having its own Strategy. The need to adopt legislative and policy measures to protect women was highlighted by the CEDAW Committee in its Concluding Observations<sup>30</sup> for the UK Government. We believe that the development of a VAWG Strategy for Northern Ireland should also have formed part of the New Decade, New Approach document in order to ensure that women and girls are protected from all forms of gender-based violence.

In the absence of these Strategies and Action Plans for Northern Ireland, to prevent violence against women and girls and which provide specific support to certain groups of people, it is vital that increased recognition and support is given to groups who are disproportionately impacted by domestic violence. This includes but is not limited to women and girls, LGBT+ people, disabled people, rural women and migrants. We are in agreement with our colleagues in the Women's Policy Group that additional resourcing should be allocated to ensure specific support services can be created for those at greater risk of domestic violence.

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<sup>30</sup> Concluding observations on the eighth periodic report of United Kingdom of Great Britain and Northern Ireland, Committee on the Elimination of Discrimination Against Women, Para 29 & 30 [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fGBR%2fCO%2f8&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fGBR%2fCO%2f8&Lang=en)

For many victims the psychological impact of domestic violence can be more debilitating than physical injuries. The Women's Regional Consortium welcomes the introduction of a domestic abuse criminal offence for coercive and controlling behaviour through this Bill. However as the original Department of Justice consultation notes "*coercive and controlling behaviour can be more difficult to identify*" than domestic violence.<sup>31</sup> In our previous submission on the domestic abuse offence<sup>32</sup> we noted that participants in our research expressed reservations about the potential of professionals in the wider criminal justice sector to properly establish evidence thresholds sufficient for prosecution. They also identified concerns about the potential of women victims to identify such behaviour as abuse and 'feel confident' that any subsequent reporting of such crime would be taken seriously by the criminal justice system especially the police.

The Women's Regional Consortium remain of the view that in taking forward the new definition of the offence and of abusive behaviour that the Executive must ensure that proper resourcing and training measures are put in place. It must be properly supported and resourced across all sections of the wider criminal justice sector, the health and social welfare sector and at community level. This should be accompanied by a public awareness campaign to increase knowledge and awareness of the offence and how to take action about it. Any such campaign must recognise the multiple circumstances in which domestic abuse can occur.

Previous research<sup>33</sup> has also highlighted the need for education, training and public awareness campaigns. It recommended "*policy measures that help to*

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<sup>31</sup> Domestic Abuse Offence and Domestic Violence Disclosure Scheme – A Consultation, Department of Justice, 2016

<https://www.justice-ni.gov.uk/sites/default/files/consultations/doj/consultation-domestic-violence.PDF>

<sup>32</sup> Response to: Domestic Abuse Offence and Domestic Violence Disclosure Scheme – a Consultation, Women's Regional Consortium, April 2016

<http://www.womensregionalconsortiumni.org.uk/sites/default/files/Final%20DOJ%20d%20%20abuse%204%2016.pdf>

<sup>33</sup> Intimate Partner Violence in Conflict and Post-Conflict Societies, Jessica Leigh Doyle and Monica McWilliams, Ulster University, May 2018

[https://pure.ulster.ac.uk/ws/portalfiles/portal/12657575/Intimate\\_Partner\\_Violence\\_in\\_Conflict\\_and\\_Post\\_Conflict\\_Societies\\_Insights\\_and\\_Lessons\\_from\\_Northern\\_Ireland.pdf](https://pure.ulster.ac.uk/ws/portalfiles/portal/12657575/Intimate_Partner_Violence_in_Conflict_and_Post_Conflict_Societies_Insights_and_Lessons_from_Northern_Ireland.pdf)



*challenge IPV through education, public awareness campaigns and training for service providers should be increasingly resourced. Codes of practice should be designed for identifying, recording and responding to IPV across health and social service professions alongside training materials to ensure consistency of good practice.”<sup>34</sup>*

We welcome the gender neutral language used in the Bill and while it is true that the majority of victims of domestic abuse are women there is a need to avoid heteronormative messaging. Many public awareness campaigns focus on heterosexual relationships which is a barrier for LGBT+ people recognising that they can also be victims of domestic abuse and can lead to under-reporting. LGBT+ victims may also experience unique forms of coercive control which is targeted at their sexual orientation or gender identity including the threat of ‘outing’ to family, friends or the wider community.

There is a need for public awareness raising campaigns as well as awareness training for the criminal justice system and the community and voluntary sector to recognise that there can be different circumstances where domestic abuse can occur beyond heterosexual relationships.

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

As previously stated the Women’s Regional Consortium believes that in order for the new offence to be effective it must be properly supported and resourced across all sections of the criminal justice system. This must include training measures across the criminal justice system, health and social welfare sectors and also at community level. Without this the investigation and prosecution of these offences will remain largely ineffective.

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<sup>34</sup> Ibid

In our previous research on this issue<sup>35</sup> women had pointed to the need for action to deal with existing difficulties in victim protection, crime prevention and access to justice for domestic violence cases. They reported problems with police responses and evidence gathering to assist with successful prosecutions, the need for greater specialist support for victims and their children and enhanced risk assessments and safety planning.

Research points to a number of difficulties in terms of taking action on domestic abuse not least under-reporting of these types of crimes and low levels of convictions. Three in five offences committed in a domestic context did not progress to prosecution due to evidential difficulties and in more than two fifths, the victim did not wish to engage with/support or continue to support the criminal justice process. Data suggests that around a third of cases did not meet the evidential or public interest tests required to proceed to a prosecution and just under a third resulted in a conviction at court.<sup>36</sup>

It is clear that in terms of securing convictions that more rigorous and innovative evidence collection approaches are needed to support successful prosecutions particularly in coercive control situations. This includes the use of the Domestic Violence register, the use of PSNI intelligence and evidence gathering and the use of body worn camera evidence all of which help to build a picture of the frequency, nature, impact and seriousness of the abuse.

We are in agreement with our colleagues in the Women's Policy Group and in the Trade Union movement that there is a need to expand Independent Domestic Violence Advisors (IDVAs) across Northern Ireland as their involvement will be an important part of securing convictions. IDVAs have been shown to be cost-effective and to improve police responses to domestic violence. Along with the Women's Policy Group and Trade Unions we also

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<sup>35</sup> Response to: Domestic Abuse Offence and Domestic Violence Disclosure Scheme – a Consultation, Women's Regional Consortium, April 2016  
<http://www.womensregionalconsortiumni.org.uk/sites/default/files/Final%20DOJ%20d%20%20abuse%204%2016.pdf>

<sup>36</sup> No Excuse, Public Protection Inspection II: A Thematic Inspection of the Handling of Domestic Violence and Abuse Cases by the Criminal Justice System in Northern Ireland, June 2019, Criminal Justice Inspection Northern Ireland  
<http://www.cjini.org/getattachment/079beabb-d094-40e9-8738-0f84cd347ae8/report.aspx>

recommend that IDVA posts should be made mandatory in all police stations and that children's IDVAs should be seriously considered.

Our previous research with women<sup>37</sup> highlighted the need for more dedicated intervention and increased resources to address LGBT+ and BAME experiences of domestic violence. Government must recognise and work collaboratively with experts who work with those most affected by domestic abuse including women, people with disabilities and those with mental health problems and LGBT+ and BAME communities.

The women we spoke to also reported a lack of appropriate legal aid support and the prohibitive cost and ineffectiveness of non-molestation orders. Latest PSNI statistics<sup>38</sup> show a 15.5% rise in the number of breaches of non-molestation orders (707) in April 2019 to March 2020 compared to the previous year. Women's Aid report that women who use their services frequently state that when they phone the police when an order was breached nothing was done. When these orders are in place they must be enforced, this is a crucial element for victim confidence in the system.

While some women can cover the costs of these orders using legal aid others cannot. Since domestic abuse is a gendered crime<sup>39</sup> this is a cost burden that disproportionately affects women. We agree with our colleagues in Women's Aid that this is an equality issue and that women should not have to pay to protect themselves from abusers. We need a different way to fund these orders that does not place the burden on women/victims of domestic abuse.

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<sup>37</sup> Response to: Domestic Abuse Offence and Domestic Violence Disclosure Scheme – a Consultation, Women's Regional Consortium, April 2016  
<http://www.womensregionalconsortiumni.org.uk/sites/default/files/Final%20DOJ%20d%20%20abuse%204%2016.pdf>

<sup>38</sup> Domestic Abuse Incidents and Crimes Recorded by the Police in Northern Ireland, Update to 31 March 2020, PSNI & NISRA, May 2020  
<https://www.psni.police.uk/globalassets/inside-the-psni/our-statistics/domestic-abuse-statistics/2019-20/q4/domestic-abuse-bulletin-mar-20.pdf>

<sup>39</sup> During 2018/19 69% of all domestic abuse crime victims were female and 31% were male  
<https://www.psni.police.uk/globalassets/inside-the-psni/our-statistics/domestic-abuse-statistics/2018-19/domestic-abuse-incidents-and-crimes-in-northern-ireland-2004-05-to-2018-19.pdf>

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

As previously stated we are very concerned about the current framing of the ‘reasonable’ defence and have suggested its removal from the legislation. It is too subjective leaving too much room for excusing the behaviour of abusers. The way it is currently framed could allow a defendant to plead reasonableness by trying to portray the victim as unstable and unable to make decisions for themselves. This is particularly the case for victims who suffer from disabilities especially mental health issues and those who suffer from addictions. These victims could find themselves disproportionately impacted by this defence.

Concerns have also been raised by the Commissioner for Older People, Eddie Lynch, who noted the phrasing in Clause 12(2)(a) “*enough to raise an issue*”. In the debate<sup>40</sup> on the Second Stage of the Bill, Rachel Woods MLA highlighted the Commissioner’s concern and said that this wording “*seems sufficiently loose as to conceivably allow for victim-blaming as a means of defence.....I do not think it is specific enough to protect elderly or vulnerable people.*”

We agree that this defence is open to manipulation by abusers particularly in cases of depression and addiction. The abuser can use these ‘labels’ as evidence that they are being reasonable with their abusive/controlling behaviours.

Perhaps the Scottish legislation<sup>41</sup> provides more clarity on this issue outlining the specific circumstances where the application of the reasonableness test

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<sup>40</sup> Official Report: Tuesday 28 April 2020, Northern Ireland Assembly  
<http://aims.niassembly.gov.uk/officialreport/report.aspx?&eveDate=2020/04/28&docID=300528#2775521>

<sup>41</sup> Domestic Abuse (Scotland) Act 2018, Section 6  
<http://www.legislation.gov.uk/asp/2018/5/notes>

might apply. For example, for the protection of household finances where a partner suffers from a gambling addiction, to restrict the freedom of movement of a partner suffering from dementia or preventing a partner associating with certain people/places if recovering from drug/alcohol addiction.

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

As previously stated we welcome the penalties outlined in the Bill. Heavy custodial sentences are symbolic and a powerful expression of society's condemnation of this offence. The fact that domestic abuse is deserving of a severe punishment helps to send a message that society will not tolerate this type of behaviour and when it does happen it will be dealt with more severely. This helps Government to show that victims and survivors are valued and the impact on their lives is acknowledged.

However in order for this to happen the law must be properly used and enforced so that it can act as an effective deterrent against domestic abuse. It is often the view that perpetrators of domestic violence get very lenient sentences and that in some cases they are more severely punished for damage to objects than to human beings. This must change in order for this legislation to be fair, compassionate and effective.

We are in agreement with our colleagues in the Women's Policy Group that sentencing guidelines for domestic abuse cases should be developed to support and encourage consistency across courts. These guidelines should provide clear rules for dealing with these cases and are important for consistency of approach and clarity for the judiciary in the operation of the penalties.

It is particularly important with the introduction of coercive control as part of the domestic abuse offence that clear sentencing guidelines are created in this area. We agree with our colleagues in the Women's Policy Group that sentencing guidelines alongside judicial training to acknowledge the nature of

gender-based violence are necessary in order for effective coercive control sentencing.

- **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**

#### *Domestic Abuse Commissioner*

We are in agreement with our colleagues in Women's Aid NI that a Domestic Abuse Commissioner should be created for Northern Ireland. Women's Aid have said that this is "*essential*" to hold Government to account and that is an "*accountability mechanism for scrutinising legislation, policy, practice, commissioning, funding and provision.*"<sup>42</sup> We agree that this would be an effective mechanism for holding agencies to account and ensuring that legislation is operating as it was intended.

We believe the case for a Domestic Violence Commissioner is clear given the issues highlighted in this response and the need for a co-ordinated cross-departmental approach to implementing this legislation. Such a role could ensure the effective implementation of any new legislation as well as identifying gaps and working across sectors to identify further areas for improvement.

In England and Wales a Domestic Abuse Commissioner is already in place and feedback has been positive. Dame Vera Baird, the Commissioner in England has been described by Sonya McMullan from Women's Aid NI as a "*true champion*" who has done much good work in terms of support and funding for domestic violence services especially during the Coronavirus pandemic.<sup>43</sup>

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<sup>42</sup> <https://www.newsletter.co.uk/health/plea-domestic-abuse-commissioner-northern-ireland-2867559>

<sup>43</sup> Ibid

The argument that has been used against having a Domestic Abuse Commissioner for Northern Ireland is that it is too expensive and the money would be better used in direct service provision. However while this argument is often made, how is it possible to know where this money is being allocated? In reality money is often not spent on direct provision so the end result would be no Commissioner and no increase in funding.

This post is also highly symbolic showing the extent of this problem, the gravity of domestic abuse and that is an issue which is being taken seriously at the highest levels.

The Women's Regional Consortium would like to see a Domestic Abuse Commissioner created for Northern Ireland. It would be important that any such post would have sufficient powers to make a real difference in this area. We recommend that learning is taken from other jurisdictions that already have such a post.

#### *Domestic Abuse Protection Notices and Orders*

Domestic Abuse Protection Notices (DAPNs) and Domestic Abuse Protection Orders (DBPOs) have been introduced in England and Wales to fill a gap in providing protection to victims. They are intended to allow a period of time during which the victim has 'breathing space' to consider their options and to allow referrals to support services without being influenced by the perpetrator or subject to further abuse and harm.

Alongside our colleagues in the Women's Policy Group we would support the introduction of DAPNs and DAPOs in Northern Ireland. However it must be made clear in all guidance and training that these are not an alternative to prosecution. We also recommend that specialist domestic violence support services must be available as part of this process to provide the considerable support that a victim would need after a DAPN is issued.

### *Housing and Funding for Domestic Abuse Services*

The Bill does not mention housing. Domestic abuse is one of the leading causes of homelessness in Northern Ireland<sup>44</sup> so this is an important issue which needs to be considered.

It is important that women have secure places to live when they have made the decision to leave an abusive partner. This is a huge decision for a woman in these circumstances and she should not have to deal with the fear of homelessness as result of protecting herself and her family. Specialised, secure and properly funded refuges are a vital part of enabling women to make the move from an abusive partner. Refuges not only provide a safe place to live but a number of wraparound services to support the woman and her family.

It is essential that these services receive secure funding which rises with the cost of living so that they can continue to provide and develop the refuge accommodation and additional services they provide.

In September 2017 the Department for Communities launched a public consultation on proposals to improve how social homes are allocated.<sup>45</sup> We support our colleagues in Women's Aid who have called for a housing allocation system that takes domestic abuse into account.

We are concerned about potential changes to the social housing allocation scheme namely that the Northern Ireland Housing Executive (NIHE) could

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<sup>44</sup> What do we know about homelessness in Northern Ireland?, Eleanor Murphy, Northern Ireland Assembly Research and Information Service, NIAR 166-16, June 2016  
<http://www.niassembly.gov.uk/globalassets/documents/raise/publications/2016-2021/2016/communities/4216.pdf>

<sup>45</sup> A Fundamental Review of Social Housing Allocation – Consultation on Proposals, DfC, September 2017  
<https://www.communities-ni.gov.uk/consultations/fundamental-review-social-housing-allocations>



meet its homelessness duty by securing suitable accommodation in the private rented sector and have these considered a reasonable offer.

The allocation of houses in the private rented sector can pose a number of problems in domestic abuse cases not least around security of tenure which is vitally important to provide stability to domestic abuse victims and their children. Social housing provides for longer tenancy agreements than the yearly tenancy agreements associated with private rentals. Women's Aid have stressed the need for longer tenancies in domestic abuse cases so that domestic abuse victims allocated a private rental under any proposed scheme are not subject to a twelve month tenancy.

There is a need for greater protection for domestic abuse victims in the private rented sector. It may be difficult for victims to explain to landlords that damage to their property, for example, a door being kicked in by a violent ex-partner, is the result of domestic abuse rather than anti-social behaviour which may result in action being taken by the landlord against the tenant.

The new proposals include a reduction from three to two in the number of reasonable offers which can be made before the NIHE have discharged their statutory duty. We also have concerns about this reasonable offer and how it fits in with victims fleeing domestic violence situations and the extra considerations that need to be taken into account. We also query how this fits with the Bedroom Tax. Women in these circumstances must not be limited or penalised by the Bedroom Tax.

### *Education and Public Awareness*

There is a need for remedial action by Government to address the way in which gendered stereotypes and discriminatory attitudes can help produce, reproduce and reinforce the gendered inequalities associated with domestic abuse. We recommend that Government should put in place meaningful education programmes at school and community level aimed at promoting gender equality and preventing gendered violence. In Section 2.0 we referred to the

work of the Raise Your Voice project which is a project to tackle sexual harassment and sexual violence across Northern Ireland. The project is doing vital work to raise awareness and educate people on how to identify, challenge and prevent this type of behaviour. We believe that this type of work needs to be further developed and resourced in order to support and complement any new legislation on domestic abuse.

As previously discussed we recommend a public awareness campaign to ensure the public understand the new offences and the behaviours that are covered by the legislation. In his Review of the Law on serious sexual offences Judge Gillen recommended the need for an extensive public awareness and school education campaign and we believe the same is needed in this area. We recommend that the Department of Justice should consider a publicly funded awareness campaign around domestic abuse using as wide a range of media as possible.

#### *Domestic Violence as a Workplace Issue*

An Irish Congress of Trade Unions survey<sup>46</sup> exploring the impact of domestic and sexual violence against women on the workplace found that it not only impacts on the home lives of victims but in the workplace also. It affects their health, safety and performance in the workplace and on their work colleagues.

A third of respondents to the survey had experienced domestic violence, with over 40% of those, saying it had affected their ability to get into work for reasons including threats, physical injury and restraint. Many also reported that the abuse continued at the workplace including harassment by phone and email and sometimes even in person.

Victims who are fleeing abusive relationships will often need time to find a new home/place at refuge, move their children's school and access legal, medical and counselling services. The ability to take time off work without

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<sup>46</sup> Domestic Violence is a workplace issue, Irish Congress of Trade Unions, Northern Ireland Committee, 2014  
<https://www.ictu.ie/download/pdf/20160308123357.pdf>

fear of disciplinary action, losing pay or even losing their job is crucially important for victims. Some countries, including the Republic of Ireland, have introduced a statutory entitlement to domestic violence paid leave. We recommend that Government should introduce a statutory entitlement to paid leave for workers who are the victims of domestic abuse in Northern Ireland.

In 2015 the Welsh Government introduced the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015. This legislation placed a duty on public bodies to both prevent the issue and protect and support survivors. We agree with our colleagues in the Women's Policy Group that additional measures which place a duty on Government to develop and implement strategies and action plans are now necessary for Northern Ireland.

The absence of workplace policies often means that colleagues and managers are not equipped to support victims and ensure their safety. The introduction of legislation, like the Welsh example, would give the power to issue statutory guidance in relation to workplace policies to promote the wellbeing of employees who may be affected by these issues.

#### *Co-design and cross-departmental approach*

A cross-departmental approach to implementing this legislation is required as it requires input from other departments including education, housing and various support services within other departments. In order for the legislation to be successful all departments must work together and be adequately resourced to implement the legislation.

The Women's Regional Consortium supports the call by the Women's Policy Group that in order to make domestic violence legislation effective and meet the needs of women in Northern Ireland full consultation and communication with the women's sector is essential. We would also like to see a co-design approach in any future legislation with the women's sector, LGBT+, migrant, rural, disability, children's, human rights and trade union sectors.

#### *Research Deficits*

As the statistics suggest domestic abuse is not only persistent but escalating. Therefore existing policies and legislation to date have proved insufficient to address this issue in any effective way. The actual nature, extent and impact of domestic violence and abuse in Northern Ireland is neither fully known or understood. This is because the relationship between gender and violence is complex, significant gaps exist in available research on the subject and non-reporting issues persist. In particular there are research deficits in the experiences of victims with mental illness as well as LGBT+ and BAME experiences of domestic violence.

The Women's Regional Consortium recommends that Government commit to help addressing the existing knowledge deficit on the nature, extent and impact of the experience of domestic violence and abuse in Northern Ireland. This would ensure that future policy development in this area is properly informed by a robust evidence base.

### *COVID-19*

Covid-19 and the resulting lockdown has led to an increase in domestic violence as many women are trapped at home with their abusers. There is a need for urgent action to ensure that refuges and support services for those suffering from domestic violence can remain open and that capacity is increased to cope with demand. Funding opportunities are limited given the crisis and these organisations must have access to funding to ensure that they can increase their services and meet the demand safely.

Following its recent examination of the UK, the CEDAW Committee raised concerns about the impact of austerity measures on women.<sup>47</sup> The Committee also reiterated its previous concern that austerity has meant “*cuts in funding to organizations that provide social services to women, including those that provide services for women only.*” Refuges in Northern Ireland and

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<sup>47</sup> Concluding Observations on the eighth periodic report of United Kingdom of Great Britain and Northern Ireland, CEDAW/C/GBR/CO/8, March 2019  
[https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GBR/CO/8 &Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GBR/CO/8 &Lang=En)

women's centres who often provide support and services to victims of domestic abuse have seen no uplift in their budgets for many years. This means that these vital service providers have had to find additional funding to cover their costs or cut back on the services they provide.

We do not wish to see the situation repeated following the financial crash in 2008 which resulted in austerity and welfare reform measures that disproportionately impacted on women.<sup>48</sup> Women should not have to pay the price for Covid-19 either during the pandemic or in the longer-term and this is particularly the case for victims of domestic abuse. These cuts cannot be allowed to happen again as a result of the predicted recession arising from the pandemic. Specialist services for domestic abuse must be financially secure and provided for within domestic abuse legislation.

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<sup>48</sup> Research by the House of Commons Library shows that 86% of the savings to the Treasury through tax and benefit changes since 2010 will have come from women  
<https://researchbriefings.files.parliament.uk/documents/SN06758/SN06758.pdf>