

Submission by the SE area Domestic & Sexual Violence and Abuse Partnership (known as the Partnership)

The primary purpose of the South Eastern Domestic & Sexual Violence Partnership is to ensure that all the agencies, organisations and community groups in the local area (as defined co-terminus with the Health and Social Care geographical boundaries) are working together on an inter-agency basis to address domestic and sexual violence and harness effort.

Aims

- To develop and deliver a high quality co-ordinated multi-agency response to domestic and sexual violence and abuse.
- To further increase and develop awareness generally about domestic and sexual violence and the measures in place to help adults and children who are experiencing domestic and sexual violence and abuse.
- To educate children, young people and the wider public that domestic and sexual violence and abuse is wrong and is unacceptable and to enable them to make informed choices.
- To hold perpetrators accountable and provide interventions to address their behaviours pending the development of suitable treatment programmes.
- To identify and share best practice within and across the Partnership.
- To disseminate relevant articles/information throughout the Partnership.
- Identify gaps in services and lobby public representatives and engage in any relevant consultation processes.

Objectives

- To develop a local response to the regional initiative which ensures a quality response in the South Eastern Partnership area.
- To access funding to support the work of the Partnership.
- To ensure sufficient and skilled members operate at every level of the Partnership.
- To ensure commitment by all member agencies to facilitate the Partnership infrastructure and developments.
- To have an inclusive and participative approach to consultation, decision making and information sharing.

- To ensure co-production with adults and children who have experienced domestic and sexual violence to ensure that their voices are heard.

The Partnership welcomes the opportunity to provide written evidence in relation to the Justice (Sexual Offences & Trafficking Victims) Bill currently progressing through the NI Assembly.

- Provisions arising from the Gillen Review of serious sexual offence cases to exclude the public from all serious sexual offence hearings and to introduce anonymity for defendants' pre-charge

Response

The Partnership welcomes the proposed provision of anonymity as per recommendations from the Gillen review of serious sexual offence cases. This includes excluding the public from all serious sexual offences hearings and to introduce anonymity for defendants pre-charge, to extend all current lifelong anonymity of the victim of a sexual offence and to provide for their anonymity for 25 years after death unless the victim wishes to waiver same.

These proposed protections will give more reassurance to victims that their privacy and right to anonymity will be strengthened in legislation and as a consequence hopefully encourage those who have been a victim of a serious sexual assault to report same to the police for investigation. We also support the increase in penalty for a breach of anonymity to deter any potential breaches and give victims reassurance regarding the right to privacy following the trauma they have experienced. Publicising personal and distressing details of someone's abuse without their consent only causes further trauma for the victim, their family and friends and should not be tolerated in a just society.

- Provisions to give effect to the outcome of a review of the law on child sexual exploitation and sexual offences against children to include live

streamed images in the definition of exploitation for sexual purposes and to create a new offence of adults masquerading as children online

Response

The psychological impact of Cat-fishing has been evident for years. The impact on children of this can be devastating. The death of Ronan Hughes in 2015 following an adult tricking the child into sharing intimate photos of himself then sending the photos to his friends when he failed to pay a ransom is one of the most tragic cases of this in Northern Ireland. Recently, an on-going PSNI investigation has identified almost 200 victims in what has been described as Northern Ireland's largest 'Cat-fishing' investigation. In this case, offences have been identified against over 60 young people across the globe. The SE D&SVP is of the view that a new offence of adults masquerading as children online is very much needed to afford young people additional protections and it therefore requires to be implemented.

- Provisions to create a new offence of up-skirting and down blousing alongside a number of other sex offence adjustments to ensure the law operates as intended in these areas

Response

Violence against women is at epidemic levels. The most likely danger to a man is another man and for women, a man with whom she is or has been in an intimate relationship. The causes of violence against women are well known and are shaped by a wide variety of social factors, at personal, situational, and social levels. Violence thrives in contexts where manhood is defined as being about dominance, toughness, or male honour. Most men don't ever use violence against their wives or girlfriends but those who do are more likely to have sexist, rigid, and hostile gender-role attitudes. There are higher rates of domestic violence in cultures and contexts where violence is seen as a normal way to settle conflicts, men feel entitled to power over women, family gender relations are male-dominated, husband-wife relations are seen as private, and women are socially isolated. Sexual violence is shaped by norms of a sexual double standard, victim-blaming, and the myth of an uncontrollable male sexuality. Poverty, alcoholism and drug abuse, and mental illness all are further risk

factors and violence against women also is shaped by race, class, sexuality, and other social divisions.

Males too are the victims of violence. While boys and men are the large majority of perpetrators of violence, boys and men often are also the victims. Males get assaulted, bullied and sexually assaulted. Boys and men are most at risk of violence from other boys and men. Ending violence to girls and women and ending violence to boys and men are part of the same struggle — to create a world based on equality, justice and non-violence. The SE area DV & SV and Abuse Partnership welcomes legislation which will criminalise acts such as “Up-skirting and Downblousing” which is a violation of a person’s privacy and can cause victims inordinate distress. For too long such acts have been dismissed as a bit of fun and therefore have not been taken seriously and as a consequence has gone under-reported. With the surge in sales in smart phones such offences have multiplied. Creating specific legislation will also send a clear message to potential offenders that they are serious offences and are not acceptable and therefore punishable in law.

We would recommend that sentencing for such crimes should be on a par with the rest of the UK to reflect the seriousness of the offence.

We also recommend that there is an awareness campaign to advise society that such behaviours are illegal and will be prosecuted.

We would also seek clarity as to the age someone can be convicted of such an offence and would recommend it should apply to anyone over the age of 18 years and to anyone 16 years or over if a second offence. This is to avoid criminalizing young people and that Children’s Services under the auspices of Trust Safeguarding Child & Family teams, PBNI and/or Youth Justice Agencies should seek to engage with the Young Person in the first instance to assess and engage with him/her to prevent repeat offending. –

The Partnership recommends that the use of sexually explicit verbal abuse in public to young girls and women should also be included in this Bill. Often girls and women run the gauntlet of comments , wolf-whistles, leering and sexually aggressive threats from men on the street or from passing cars. Many have been followed and fear violence or sexual assault. To sexually objectify

girls and women places them at increased risk of assault. Legislation is needed to criminalise such behaviour and reinforce that such behaviour is unacceptable and will not be tolerated.

- **Provisions to adjust the modern slavery strategy and improve services for potential victims of slavery and exploitation**

Response

Part 2 - Clause 16 - Support for victims of trafficking etc

The Partnership appreciates the need for the inclusion of this clause to help support victims of forced servitude who were not directly trafficked. This will enable the victims to be able to formally access support from the relevant authorities and get the support they need.

Part 2 – Clause 17 – Reports on slavery and trafficking offences.

There has been an increase in reports of human trafficking and slavery in NI and the Partnership supports the need for a strategic approach to crimes of this nature to best support victims and rescue those being exploited.

The Department has also advised the Committee of four planned amendments to the Bill that the Minister is currently developing and the Committee would also welcome views on these. The proposed amendments cover the following: -

- **A legislative fix to re-instate four offences incorrectly removed into Schedule 2 of the Magistrates' Courts Order 1981 to allow for the summary prosecution of these indictable offences under Article 45 of that Order**
 - **Amendments of references to certain forms of Child Sexual Abuse**
 - **Amendments relating to the offence of engaging in sexual communication with a child**
 - **Amendment relating to the offence of paying for the sexual services of a person**

- Offence of breach of anonymity providers of information society services

Response

The first two amendments will strengthen the law to enable the Police to tackle Child Sexual Exploitation in its various forms, both off-line and online and these proposed legislative changes are to be welcomed. It will also address recommendations arising from the CJINI – Child Sexual Exploitation in NI – An Inspection of the Criminal Justice System (2020) and The Leonard Review – An evaluation of how the SBNI member agencies are effectively responding to and managing CSE within NI (2020). They will reinforce to victims that they are not responsible for their abuse and that adults will be held accountable and punished for these crimes.

□ Abolition of the rough sex defence

Response

Intimate partner homicide has a strong relationship to domestic abuse and coercive control. Research is showing that attempted strangulation is a “high-risk marker” strongly associated with serious harm and future homicide. This is not simply because nonfatal strangulation could “accidentally” but intentionally end as homicide because people who use strangulation are more dangerous.

It is experienced as a real threat to life often leaving victims and observers (i.e. Children) of such violence as severely traumatised. It is a way of exerting ultimate control and leave the victim in no doubt that their life is literally in their hands. Research also highlights that non-fatal strangulation is rarely a spontaneous and angry assault, it is more likely to be a controlled and determined threat. Under current legislation attempted strangulation is not viewed as a serious criminal offence and the dangerousness of the perpetrator is not reflected in the law or in subsequent sentencing.

Using the “rough sex“ claim as mitigation to explain a death benefits the offender not the victim and does not minimise/excuse this serious crime. This “defence” is being increasingly used by offenders and the Partnership would recommend that the Bill seek to abolish the use of this terminology as a defence in criminal proceedings.

Research shows that non-fatal strangulation is an important risk factor in the death of women.

A history of non-fatal strangulation:-

X six times increases risk of becoming a victim of attempted homicide

X seven times increases risk of becoming a completed Homicide.

During the period 2018 - 2019 there were

224 Complaints made in respect of non-fatal strangulation at St Mary’s SARC Manchester

96% were female complainants and 4% were male complainants

With the gender of the alleged assailant being 99% male and 1% female.

This evidences that non-fatal strangulation is a gendered crime and this should be reflected in awareness raising and in policies & procedures and guidance to support the new legislation.

The above information has been gleaned from survivors of nonfatal strangulation. Those that have died as a consequence of strangulation have no voice and the “rough-sex” defence is enabling offenders to literally get away with murder.

- An extension to existing revenge porn provisions to include a threat of publication**

Response

The SE D&SVP would wholeheartedly agree that there needs to be an extension to existing revenge porn provisions to include a threat of publication.

It is clear that more needs to be done to protect the public from image based sexual abuse. The phrase revenge porn is incorrect in itself and should be referred to as image based sexual abuse. Clare McGlynn and Erika Rackley's report Shattering Lives and Myths states, "we do not use the term 'revenge porn' as this fails to cover the nature or breadth of abusive behaviour involving nonconsensual imagery. Also, not all perpetrators are motivated by 'revenge' and victim-survivors rightly object to the term 'revenge porn' as it has victim-blaming connotations. The focus must be on the harm experienced by the victim-survivors, not the motivations of perpetrators.

One of the main recommendations of the Shattering lives and myths report is the need to recognise image based sexual abuse as being motivated more by control and misogyny, masculine entitlement and attitudes, than 'revenge'.

The shattering lives and myths report stated, "nearly half of the victim-survivors we spoke to had experienced threats to share nude or sexual images/videos without consent. While many of these threats were followed by non-consensual sharing, we must recognise that threats to share such images can in and of themselves have significant, life-threatening impacts." One of the main recommendations of this report is the extension of Northern Irish law to cover threats to share nude or sexual images without consent.

It is clear that current legislation does not go far enough in affording protection and this should be reflected in the extension of provisions to include threat of publication.

□ Provisions to widen the scope and strength of the current law on abuse of trust

Response

The Partnership has read and agrees with the NSPCC (Northern Ireland) Briefing Paper: Close the loophole campaign.

Safeguarding older teenagers poses particular challenges as they are able to consent to sexual activity at 16 under the Sexual Offences (Northern Ireland) Order 2008. Yet, they are still children until they reach their 18th birthday and therefore require protection from harm under the Children (Northern Ireland) Order 1995. The 2008 Order affords 16 and 17-year-olds additional protection from sexual harm by adults in a position of Trust in the context of a statutory responsibility such as education, state care and criminal justice.

However, this offence does not include adults working in non-statutory roles, including sports coaches, faith group leaders and other groups of people working with children and young people undertaking extracurricular activities; despite the fact that adults in these settings have substantial influence and power over young people and “consensual relationships” in this context are inappropriate on the grounds that they are open to sexual exploitation and abuse. It is also the Partnerships view that this legislative gap leaves 16 and 17 year-olds at risk of grooming and child sexual abuse by adults who have substantial influence and power over them.

The Partnership welcomes legislation being strengthened to be as robust and inclusive as possible and should afford protections to children young people across a broad range of environments and extracurricular activities as possible, to include, but not limited to sport and religious settings. Protections to keep children safe should not depend on the setting or activity the child is taking part in, but the risk of harm to children.

Another gap in the legislation relates to Child Abduction Warning notices (CAWN's) and we should seek an amendment to plug this gap in the New Justice Bill.

When working to protect young people from the risk of Child Sexual Exploitation, one of the most effective tools when a

potential perpetrator has been identified is the threat or use of CAWN. As part of an effective prevention/ deterrent package, CAWN's and the threat thereof have been instrumental in ensuring that a potential perpetrator knows that safeguarding and justice agencies are actively seeking to disrupt the unauthorised relationship between the child and themselves. The law surrounding CAWN's is contained within the Child Abduction (Northern Ireland) order 1985 and Article 68 and 69 of the Children (Northern Ireland) Order 1995. The current provision affords CAWNS being available to all young people up until their 16th birthday. CAWN's are able to be served with respect of young people subject to Care Orders up until their 18th birthday. It is the view of the SE D&SVP that the law should be changed to allow CAWN's to be served on adults regardless of the age and care status of the child. It is the view of the SE D&SVP that lack of provision of CAWN's for 16 and 17 year old children not subject to Care Orders is a significant lapse in child protection legislation.

The above proposed amendment will also support recommendations arising out of the CJINI and Leonard reviews as referenced earlier in our response.

Provisions to widen the scope and strength of the current law on abuse of trust should also include abuse of trust of adults at risk of harm and in need of protection (those unable to protect themselves from others) Legislation with regard to adults and abuse of trust is particularly weak and warrants urgent attention.

Thank you for considering our response and we wish you well in your deliberations.

