

**Committee for Justice, Domestic Abuse and Family Proceedings Bill
Record of Issues Raised by Individuals at Informal Meetings
Informal Meeting 18 September 2020 – Individual E**

Present: Paul Givan MLA, Chairman

In attendance: Kathy O'Hanlon, Senior Assistant Clerk
Peter Madine, Assistant Assembly Clerk

The Chairman, Mr Paul Givan MLA, met with Individual E via video call to discuss her experience of domestic abuse and the response by justice bodies/agencies and others.

Personal experience of domestic abuse

Individual E advised that she had been in an 8-year relationship which she left just over 7 years ago. She has been subjected to 15 years of abuse, which has included her whole adult life.

Individual E met her abuser, who was a serial perpetrator, at 17. She was naïve and had no concept of domestic abuse at that time though in hindsight would have been subjected to coercive control. Her mother had raised concerns with the school and social services about the relationship but was told that it was Individual E's own choice.

Over time Individual E was subjected to physical, emotional, sexual, financial abuse and has had her children used as a weapon against her. Individual E describes the experience as torture. Her ex did not let Individual E even keep phone numbers for her family members.

Individual E's ex has served a 3-month custodial sentence for financial abuse against her, though she believes this may be recorded as fraud rather than domestic abuse.

Individual E's ex had told her he was infertile. However, when she became pregnant he told her that it was to stop her from going to university.

Over the years there have been 4 applications to the family court, 2 ex parte Non-Molestation Orders (NMOs), 1 one-year NMO and one ex parte prohibited steps order. These have been at significant financial cost to Individual E as she is not eligible for Legal Aid.

He continues to abuse her through the court system emotionally and financially. The legal fees are so high that Individual E had to live with her parents for 6 years, she nearly went bankrupt and has had to rely on family members to pay some of her fees and daily living expenses so that she can keep her home.

Response by justice bodies/agencies and others

Individual E saw the opportunity to leave the relationship when her ex was arrested in relation to other crimes. The Court Children's Officer, however, said that the abuse couldn't have been that bad if Individual E had waited so long to leave. This has been a common theme among professionals that Individual E has had contact with; the only people who didn't ask these type of questions were from Women's Aid.

Individual E feels that victims are always testing agencies and bodies as to how they are going to support victims. She never felt that she would be supported – for example, towards the end of the relationship she felt that things were escalating and she was at risk, so went in a distressed state to the NIHE for a form for housing but nobody asked if she was OK.

Individual E has had very poor experiences with the family courts. Her mother has attended court to support her but her ex implies that her mother is a bad influence. Individual E has been very nervous being in the same building as the perpetrator, and states that being in the same building as someone who has had so much control over you can have an effect on quality of the evidence you give. Individual E said her ex just has to give one of 'his looks' to make her nervous and he has done this when she has been giving evidence. She and her eldest child describe it as a look that still makes them want to run and hide.

With regard to evidence of abuse, she was told that the Judge wouldn't want to hear details of abusive text messages and was told that financial abuse was not relevant to her case. She said that victims can be told that what they feel is important is of no relevance. On a particular occasion in child contact proceedings, Individual E was told that her evidence regarding domestic abuse, which included details of rapes and other abuse, was not relevant to the case and wasn't proven.

When supervised access was discussed, Individual E said she would ask her child, who was then 12 years old, how she would feel about it. However, the judge called her an 'irresponsible parent' and was told she would be required to ensure contact. The child's view doesn't matter, despite them having witnessed traumatic incidents. She feels if you try to keep your children safe by withholding contact you are being a 'bad parent' but if they go and are subjected to abuse you are a bad parent for not protecting your children.

Individual E talked about the denial of domestic abuse and how perpetrators are treated differently than in other cases. She believes that the courts try to force you to accept that someone has changed just based on their own word, yet the perpetrator is never expected to accept the victim's version of events. Victims or witnesses in other types of crime are never expected to accept the word of the perpetrator.

Individual E's ex has taken three cases to the family court which he subsequently dropped. He gets Legal Aid but Individual E is not eligible as she works so she has had to pay legal expenses and childcare costs and take time off work. He went through with the fourth case and was allowed unsupervised contact, but he hasn't gone ahead with the majority of contacts scheduled.

Individual E can apply to prohibit him from bringing any further orders against her to the family courts. Her solicitors are applying for these for 2 years, though their normal duration would be for one year, which means she will face the same situations again and again which adds to the trauma.

Individual E has other examples of cases her ex has taken against her which are without merit, and doesn't understand how he continually able to be funded through Legal Aid to take these cases. She feels it is in the interests of solicitors who take Legal Aid cases to prolong the cases. Individual E said that, in view of the costs to her, it would be in her interests for cases to conclude more quickly but she is so concerned for the wellbeing of her children that she will fight them. She feels that there is enough evidence to show that he is using the court system to further the abuse but his parental rights seem to trump everything and that is not good for the children.

Individual E believes Court Children's Officers (CCO) are not fit for purpose and she intends to make a complaint about the CCO in her case. Although it is on police record that a rape case against the perpetrator was dropped due to threats against her, the CCO minimises the entire scenario as he was not convicted. Individual E has been made to wait in the waiting room beside the perpetrator for the CCO to assess the child contact. Examples of unacceptable comments made by the CCO include "you chose to have children with him," "you chose to have a second child," "you didn't leave," and "you didn't go through with the court case." Individual E advised the CCO that evidence relating to that case was with the police but was told that they were not an investigating officer. The CCO's report said that her ex was manipulative in the way he spoke to CCO and that Individual E was doing everything she could as a parent. However, at the end the report concluded that the CCO could not be certain who was telling the truth and that some of the information Individual E gave was 'bizarre.' Individual E felt that this would imply to the judge that she was lying about her experiences and it adds to her concerns that nobody believes her.

Individual E has also had negative experiences of relationship counselling, having been called gullible and naïve by a counsellor.

Individual E does not feel she has ever had a good or fair decision from a judge. No matter what has happened she says she feels that the blame has always been on her. For example, she has been held responsible for a fine imposed on her ex-partner on the basis that the judge knew he would not pay it, therefore her name was also on it.

During a case against her partner in relation to other criminal charges, he told the PSNI that he would tell the truth if Individual E came to see him. The agenda of the PSNI was to get that confession and badgered her to go down to him. She told them she didn't want to see him as she was a victim of domestic violence and felt that the PSNI were putting her in danger to satisfy their agenda. Individual E found that very unfair.

What needs to change?

- Individual E said that the current strategy states that there should be zero tolerance approach to domestic abuse in Northern Ireland, but there is no accountability and the lack of knowledge of professionals means that it is currently far from zero tolerance.
- Language is important – perpetrators will often target the young or vulnerable, who due to age or knowledge, wouldn't have any concept of what coercive control is.
- Special measures are not available for cross examination in family courts. This appears to be "just in case" someone is lying about domestic abuse. The majority of witnesses will not be lying but having to give evidence without special measures such as a screen has a detrimental impact on the quality of their evidence.
- Individual E believes that the Court Children's Officer role needs to change. In her experience, the one person to assess the best needs of the child refuses to look at evidence and investigate anything.
- There needs to be an inter-agency and inter-departmental approach to dealing with domestic abuse.

- Individual E feels that the use of the legal aid system by perpetrators as a tool to further abuse someone financially needs to be examined. There is an imbalance between a working single person and a person on benefits. Legal representation is required and is costly.

Further Recommendations on the Bill

- 'Judge shopping' is something that needs to be prevented. People should not be able to move from court to court in different towns until they get the answer that they want.
- A Domestic Abuse Commissioner is something that Individual E feels very strongly about and believes it would be of benefit to all victims. She felt that, throughout her experiences, she had nobody to turn to for accountability.
- Individual E feels there needs to be a gendered definition of domestic abuse, as it is a fact that women are more likely to be victims of domestic abuse than men. She also feels the lack of a definition is not in line with the Istanbul Convention.
- Individual E believes that there should be specific domestic violence courts. Over the last 8 years there have been 7 different judges involved in her case. It is very important to have consistency.
- Individual E believes that the family courts should be opened up as victims can be further abused through the court system especially when proceedings are closed. Opening the family courts up would make it harder to deny accountability.
- Education for judges is a concern as many appeared to have no knowledge or understanding of domestic abuse in its various forms. This includes the ability to refer victims on to specialists. There is also no accountability for judges.
- Individual E urged caution at the use of the reasonableness defence under Clause 12. Many perpetrators are extremely manipulative and could use this to their advantage.
- Individual E believes the legislation will enable victims not to feel that they have to wait until they suffer physical abuse so they can have evidence such as bruises, but they will be able to take action when they suffer verbal or financial abuse, coercive control etc. She hopes that victims will feel less powerless and will leave the situation earlier.

Following the informal meeting, Individual E submitted a number of written points for consideration which are attached at Appendix A.

Appendix A

- I believe that victims should be able to recoup their legal fees if perpetrators break court orders. There are zero consequences for financial abuse through the family courts. The only individuals negatively effected by the behaviours of the abuser are the children and the victim.
- Individuals on certain benefits should not automatically receive legal aid. My abuser receives £391.21 with no legal costs per week to support only himself. He pays £3.50 per week per child in child maintenance. This is less than the definition of absolute poverty, defined by the United Nations (poverty line £1.50 per day, my children receive 50p per day). If he was earning his income my children would receive £62.58 per week, this adds to the financial strain placed upon me plus he would be paying tax and NI plus his outgoings would include legal expenses. However, I receive £451.92 per week to raise 2 children, pay a mortgage, fuel, tax & NI, legal fees etc. When I take my legal expenses out my abuser's income is more than my earned income. Legal aid eligibility is very unfair and in its current form lends itself to manipulation from abusers.
- The notion of 'paramountcy of the child' should be central. The assumption that any father is better than no father needs to be evidenced. Father's rights should be secondary to the rights of a child. In my experience this is far from the belief or actions of the family courts system.
- Domestic Abuse should be clearly relevant to child contact. Being told that traumatic domestic abuse incidents witnessed by a child is not relevant to the case is absurd. Research continues to show the correlation between witnessing domestic abuse and poor outcomes for those children over their lifetime. The CCO stated that in her only 30-minute meeting with my child did not disclose incidents of abuse, therefore implied that there was no impact upon the child.
- New welfare reforms are also disproportionately effecting women who have experienced domestic abuse. Example; I have outlined my income above, I am a single parent through no fault of my own, when I am forced onto the new universal credits system I will be £42.44 per week worse off, plus if in 2 years' time my abuser decides to take a case to family courts once again I will remain ineligible for legal aid assistance. Surely, the fact that domestic abuse victims will be disproportionately negatively affected by these changes cannot be lawful especially when we want women to flee from abusive situations and to keep their children safe. Domestic abuse survivors who are mainly single mothers are going to be plunged into poverty. The outcome quite possibly will be the return to an abusive relationship. The very system set up as a safety net can and will prevent women from escaping abuse and increase the risk of serious harm to the victim and her children.

The system is far from zero tolerance of domestic abuse.