

EMAIL

Paul Givan, MLA
Chair
Committee for Justice
Room 242, Parliament Buildings
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Ref: 20/AM/KY/132

25 September 2020

Dear Chair

Re: Domestic Abuse and Family Proceedings Bill

I welcome the detailed scrutiny process being undertaken by the Committee in regard to the above legislation and the particular attention Members are giving to the application of the Bill's provisions to children affected by domestic violence and abuse.

Following on from my written submission to the Committee on 4 June 2020, the Committee's discussions of 24 September and information provided to my office by the Department subsequent to this, I would like to take the opportunity to make a number of points:

Clauses 11 and 17: NICCY has previously expressed significant concern about the lack of access to legal protection in the Bill as it was introduced for children affected by domestic abuse where the abuser holds parental responsibility. We welcome measures to address this and to seek to provide adequate protection for children in law, particularly in relation to non-physical forms of abuse. We note the Department's proposal to provide such protection for 16 and 17 year olds in the Bill and provide protection for children under 16 years through an amendment to Section 20 of the 1968 Children and Young Person's Act. I do not view that this is the most appropriate or effective measure. **NICCY recommends that all children under the age of 18 years are afforded protection within the scope of the Bill through the removal of clauses 11 and 17.**

We highlight that the Bill seeks to provide a clear basis in primary legislative through which a robust understanding of the dynamics, behaviours and impact of domestic abuse on all those affected, including children, is recognised. In our view, it is appropriate that all such related protections for children are contained within a single unified Bill and are not fragmented across different pieces of legislation which may operate differently in scope,

for example, in establishing thresholds for an offence or in penalties that can be made available.

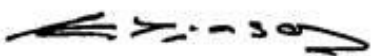
We further note that clauses 1-5 which define the scope of domestic abuse and related behaviours and clause 12 which provides a defence on the grounds of reasonableness set in place safeguards to ensure that domestic violence and abuse, and not other behaviours, fall within remit of the Bill's provisions and protections.

Clause 9: NICCY welcomes the close consideration Members have given to examining how the provisions of the Bill can encompass abusive behaviour beyond a requirement that a child must be present or have seen or heard such behaviour. We had previously recommended this was addressed and are **supportive of measures to ensure that such incidents of abusive behaviour would fall within the scope of provisions, whether this is provided for on the face of the Bill or is clarified the Explanatory and Financial Memorandum.**

Children displaying harmful or abusive behaviour: while this has not been central to the Committee's recent deliberations, I would like to take the opportunity to reiterate our concerns about the scope of the Bill in the definitions of personal connection and the child aggravator clause which may disproportionately impact upon and criminalise children and young people in young relationships who may be engaged in harmful and abusive behaviour. NICCY is clear that any such abusive and harmful behaviour is unacceptable and necessitates a swift response with the aim of safeguarding and protecting child victims. However, such interventions should also aim to deliver effective therapeutic and rehabilitative interventions for children engaged in such abusive behaviour and seek to divert them away from the criminal justice system and we would welcome additional measures to provide such a safeguard.

Please do not hesitate to contact my office if you require any further information.

Yours sincerely



Koulla Yiasouma
Commissioner for Children and Young People

CC: Veronica Holland, Department of Justice

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