

FROM THE OFFICE OF THE JUSTICE MINISTER



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Christine Darrah  
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Room 242  
Parliament Buildings  
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BT4 3XX

25 August 2020

Dear Christine,

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

Following the written and oral evidence provided to the Justice Committee on the Domestic Abuse and Family Proceedings Bill, you wrote to the Department requesting a written response on the other issues raised in the evidence received by the Committee, in order to further assist the Committee in their deliberations. You have already received the response table dealing with issues around the main provisions of the Bill. The Department has added a response to the other issues table, covering the position on the matters raised.

While the return date for this is Thursday 3 September Members may find it helpful to have the response to that table ahead of the attendance of Departmental officials with the Committee on that date. Members will wish to note that there is an aspect of the table on which input is outstanding from another Department. We will follow up separately on this.

I trust that the response in the attached table is of assistance to the Committee. Officials are of course content to discuss the issues further at the September Committee session, or at another date, and look forward to continued engagement with the Committee on

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issues related to the Bill.

I would be grateful if you could bring this update to Member's attention.

**Departmental Assembly Liaison Officer (DALO)**

**Enc. Response table**

**OTHER ISSUES/PROPOSALS NOT CURRENTLY INCLUDED IN THE BILL EXCLUDING THOSE ALREADY COMMENTED ON SUBSTANTIVELY BY THE DEPARTMENT OF JUSTICE**

Issue/Proposal	Department of Justice comments/views
<p><b>Domestic Abuse Protection Notices and Protection Orders</b></p> <p>A number of organisations want to see legislative provision for DAPNs and DAPOs now by inclusion in this Bill rather than in a future legislative vehicle and want them based on the new orders coming in to force in England and Wales rather than previous proposals. Other proposals include:</p> <ul style="list-style-type: none"> <li>▪ court fees for the police to pay for a DAPO should be abolished.</li> <li>▪ It should be a criminal offence to breach a DAPO</li> </ul>	<p>The Department is currently looking at proposals for the introduction of DAPNS and DAPOs.</p> <p>Initial views of the PSNI and voluntary sector have been sought and lessons learned from the introduction of Domestic Violence Notices and Orders in England and Wales are being considered.</p> <p>Due to the policy and operational lead in time required this will be taken forward at the amendment stage of the Justice (Miscellaneous Provisions) Bill.</p>
<p><b>Non-Molestation Orders</b></p> <p>The prohibitive cost and ineffectiveness of non-molestation orders has been highlighted. Key points raised include:</p> <ul style="list-style-type: none"> <li>▪ A lack of appropriate legal aid support</li> <li>▪ A different way to fund the cost of non-molestation orders is required – victims should not be responsible for financing protection for themselves or their children</li> <li>▪ All fees for Non-Molestation Orders should be scrapped</li> </ul>	<p><u>Lack of legal aid support</u></p> <p>Legal aid is available for non-molestation applications. Dependent on their means, some people may have to make a contribution to legal costs but the default position is that the financial eligibility limit for applications is waived and those whose disposable income or capital exceed the upper financial threshold will only contribute on a sliding scale reflective of their income or capital.</p> <p>The legal aid provision is there to ensure no one pays thousands of pounds to secure the protection of a non-molestation order. Where people are incurring significant material costs these may relate to wider legal proceedings where the waiver does not apply.</p>

- The process needs to be stream-lined to provide Orders quicker
- A lack of enforcement of non-molestation orders and no effective action when breaches occur must be addressed

#### A different way to fund the cost of non-molestation orders

Even if the person's disposable income or capital exceeds the upper financial threshold, they can still receive legal aid, subject to paying a contribution towards their costs. Any contribution will be on a sliding scale reflective of their income or capital.

#### Fees

Northern Ireland Courts and Tribunal Service do not charge a fee for processing non-molestation orders and these remain subsidised. The only fee required is for service of the summons and accompanying documents by the PSNI or a summons server and this is set out in Schedule 2 of the Magistrates' Court (Amendment) (NI) Fees Order 2019. If an order has been made ex parte – the service fee is approx. £25. If the applicant has requested/ directed to an inter parties hearing – the service fee starts at £21.

#### Streamlining process

When a Judge deems that an application is urgent and an ex parte order is required, the court clerk will result the order as soon as possible after the hearing. This result is then checked and confirmed by an independent clerk and emailed directly to the PSNI for service on the respondent. At the first hearing for an inter parties summons, if the respondent does not attend and is not represented, the Judge may grant an interim non-molestation order. This order is also emailed to the PSNI for service on the respondent as soon as possible after the hearing.

Where both parties are represented and an order is granted at the end of the court proceedings, Northern Ireland Courts and Tribunal Service have an SLA of 5 days in which to serve the order on the

	<p>parties and the PSNI. This is deemed acceptable as all parties are fully represented at court and are aware of the terms and conditions of a court order.</p> <p><u>Enforcement</u></p> <p>There already exist clear enforcement procedures for non-molestation orders in Articles 25 and 27 of the Family Homes and Domestic Violence (Northern Ireland) Order 1998, and the system of non-molestation orders (and other provisions) has been operating for in excess of 20 years, providing a raft of useful civil law measures in relation to the issue of domestic violence. Officials in the Department of Finance are content to explore further with relevant colleagues in an evidence-based manner any particular problems that may require legislative attention in the future, and in the context of the further developments that the draft Bill under consideration will accrue.</p>
<p><b>Evidence Collection Approaches</b></p> <p>A number of organisations have stated that consideration needs to be given to adopting more rigorous and innovative evidence collection approaches to build up a picture of the frequency, nature, impact and seriousness of the abuse and support successful prosecutions. Suggestions include:</p> <ul style="list-style-type: none"> <li>the use of a Domestic Violence Register to show the number of times police have been called to the house, to build a picture of the frequency and nature of abuse and to track evidence of abuse in different areas</li> </ul>	<p>In cases flagged by the police as motivated by domestic violence police are required to prepare a domestic violence history. Under the Working Together Project, any domestic violence history must be shared with PPS when the file is submitted. This will generally show the number of times police have been called to a house to build a complete picture of the pattern of abuse.</p> <p>PPS do not receive details from police of domestic abuse in other jurisdictions.</p> <p>PSNI have recognised and effective evidence and intelligence gathering measures in place which continue to develop.</p> <p>The use of body worn video cameras has been an important additional tool in evidence gathering. Prosecutors and police have received training in respect of this and its importance in taking</p>

<ul style="list-style-type: none"> <li>▪ The development of an All-Ireland and UK database with details of all DA and DV perpetrators</li> <li>▪ the use of PSNI intelligence and evidence gathering</li> <li>▪ the use of body worn camera</li> </ul> <p>CJINI also highlighted its reports on the issue of delay in the criminal justice system which called for greater collaboration between the PSNI and PPS to enhance file preparation and standards applied around disclosure.</p>	<p>cases forward. PPS has been heavily involved in assisting police in training officers to provide the best quality footage possible.</p> <p>In line with the CJINI recommendation, PSNI and PPS have formed a joint working group on domestic abuse as part of the Working Together project to further develop the prosecution team approach, enhance file preparation and standards for cases involving domestic abuse or with a domestic motivation and reduce delay. An optimum file build in terms of evidence has been proposed and is due to be quality assured in the autumn. PPS and PSNI will be directly reviewing files in terms of submissions times and quality of evidence. The results of the quality assurance will then influence the joint prosecution team approach to prosecuting cases of domestic abuse moving forward.</p> <p>Work is ongoing with the judiciary around the piloting of listing arrangements at Laganside Magistrates court later in the year, which would enable the clustering of domestic assault cases, accompanied by improved file quality processes. There will be an increased focus on ensuring that prosecutions can proceed in the absence of a victim giving evidence. It is hoped that the processes may also improve the current attrition rate.</p>
<p><b>Data Collection</b></p> <p>A wide range of organisations including the Equality Commission, the NI Human Rights Commission and Women's organisations state there is a need to strengthen data collection regarding domestic violence and abuse to address the knowledge deficit on the nature, extent and impact of it.</p> <p>Comments included:</p>	<p>The Department recognises the importance of robust data and is reviewing this in relation to the new offence. How best to secure this, and what will be reported on, is being considered by the Department in conjunction with partner agencies as part of the operationalisation of the new offence. It is unlikely to be possible to record the level of detail stipulated at an individual victim level.</p> <p>PSNI Statistics Branch currently publishes domestic abuse crimes disaggregated by sex/gender and ethnicity. Statistical information on disability and sexual orientation is not available for publication.</p>

Recommend steps are taken to ensure effective equality data collection and monitoring of the impact of domestic violence on Section 75 equality groups.

Department of Justice should work with relevant public authorities and civil society organisations to systematically collect and publish data on domestic abuse that is disaggregated by sex, gender, ethnicity, disability and age. The journey of abuse investigations through the criminal justice system should also be recorded including the no. of initial reports, no. of referrals to PPS, how many reach different stages of the court process, how many reach prosecution, what is the resulting remedy and how many repeat offences.

The legislation should be accompanied by a focus on strengthened data collection regarding domestic abuse reports made to the PSNI, applications for protection orders, cases brought and convictions, along with monitoring the length of processes and the effectiveness of case handling procedures and protocol.

Addressing the knowledge deficit would ensure future policy development is properly informed by a robust evidence base.

Recommend that police, prosecution service and the courts complete robust and section 75 compliant monitoring of cases which are investigated and prosecuted under this law to ensure the availability of a range of disaggregated data to enable the identification of

In relation to the issue of further data collection on Section 75 groups for all crime PSNI have been in contact with the Equality Commission.

PSNI Statistics Branch publish the outcomes of crimes with a domestic abuse motivation (Annual bulletin on outcomes of crimes recorded by the police).

A range of the information stated is already (or will be) available such as incidents to the police, applications for protection orders, number of convictions and higher level information in relation to the length of processes.

PSNI Statistics Branch publish a range of information on offences where the victim is under 18, including offences with a domestic abuse motivation.

<p>differential impacts and outcomes associated with the legislation.</p> <p>Recommend implementation of the UN Committee on the Rights of the Child in relation to strengthening the systematic collection of data on violence against children, including domestic violence and the sharing of information and referral of cases among relevant sectors in a GDPR and children's right compliant way.</p>	
<p><b>Training</b></p> <p>A wide range of respondents to the Committee's call for evidence highlighted the need for appropriate investment in training for anyone involved in gathering evidence, prosecuting and enforcing the new law and the view is that the legislation will only be effective if accompanied by comprehensive training.</p> <p>It was stated that the following professions/groups will require training:</p> <ul style="list-style-type: none"> <li>▪ PSNI including all first responders to any incidents of domestic violence and abuse</li> <li>▪ Other first responders</li> <li>▪ PPS</li> <li>▪ Judiciary</li> <li>▪ Jury Pools (the need to adequately support jury members was also highlighted)</li> <li>▪ All legal professionals including solicitors and barristers</li> <li>▪ Social workers and social care workers</li> </ul>	<p>The Department recognises the importance of training and awareness raising. A multi-agency Task and Finish Group will consider how best awareness raising can be progressed. This will include both statutory as well as voluntary and community sector partners. The guidance associated with the new offence, as well as an advertising campaign, will also be important in terms of raising awareness around what constitutes domestic abuse and examples of behaviours that could be captured by the new offence.</p> <p>The Department does not consider that the requirement for training needs to be placed in statute.</p> <p>Discussions are also being held with the Judicial Studies Board in terms of raising awareness among the judiciary, including considering what lessons can be learnt from other jurisdictions. In responding to the Department's consultation on options for legislation to protect victims of domestic abuse from being cross-examined by perpetrators in person in family proceedings (which led to Clause 26 in the Bill), several organisations made similar points about the need for guidance, training and awareness-raising for the judiciary to ensure consistency in the use of any discretionary power to prohibit cross-examination in person. The</p>



<ul style="list-style-type: none"> <li>▪ Adult and child protection professionals</li> <li>▪ Medical Professionals including GPs</li> <li>▪ Teachers</li> </ul> <p>The Presbyterian Church also believes that training would be valuable for clergy and volunteers in a church setting who provide pastoral care, often in peoples' own homes.</p> <p>The need for first responders, the PSNI, PPS and judiciary to adequately understand the meaning of coercive control and recognise the behaviours and evidence of its existence has been highlighted as of particular importance.</p> <p>The view has also been expressed that the training should be delivered by specialist domestic violence service providers such as Women's Aid.</p> <p>Some organisations highlighted the need for the training to cover specific issues including the impact of domestic violence and abuse on women and children, a wider understanding of men as victims of domestic violence and abuse, the particular needs of different groups of people including LGBT and other marginalised and vulnerable groups and obligations to report and take appropriate action in suspected cases of domestic violence affecting children.</p> <p>The Bar of NI also highlighted that there may be scope for a difference in practice between judges as to whether cross-examination is prohibited or not and this may require training and education for the judiciary and others</p>	<p>Department has shared these comments with the Judicial Studies Board.</p> <p>PSNI continually train officers in regard to domestic abuse. All training undertaken by officers was acknowledged in the 2019 Domestic Violence and Abuse thematic Inspection by CJINI. As a result of the inspection PSNI are developing a new training programme focusing on the training of new officers and first responders in regards to domestic abuse.</p> <p>PPS will be delivering domestic abuse training to all lawyers both internal and external counsel to cover the new aspects of the legislation. It is intended that there will also be specialist training, most likely provided by specialist organisations, to focus on the impact and effects of coercive and controlling behaviour on victims.</p> <p>Department of Health officials will continue to work with the Department to plan for the Bill's implementation and the development of statutory guidance. It will be important that health care professionals have a shared and consistent understanding of the context and impact of the offence and in particular, the nature of coercive and controlling behaviour. That work will continue over the autumn months. The Department of Health welcomes that the Bill recognises the adverse impact that domestic abuse can have on children and young people and therefore supports the child aggravator associated with the offence, as set out in clause 8 and 9. Statutory Guidance and awareness raising associated with this will be considered by the implementation group. Commissioning of services will follow normal procurement procedures.</p> <p>The guidance associated with the new offence, which will be published, will also be central to providing information and raising</p>
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<p>in the legal sector in determining if cross-examination will indeed cause distress.</p> <p>Education and training will also be important in circumstances in the family courts where an allegation is made but has not been reported to the PSNI.</p> <p>The Committee for Health <b>recommends that statutory guidance and associated training be provided to front-line responders on the implementation of clauses 8 and 9.</b></p> <p>Victim Support is of the view that training of all agencies involved in the prosecution (and defence) of the new offence will be as important as passing the law itself. Victim Support recommends that there is a <b>legislative requirement for training of all first responders</b> to ensure that they are able to recognise the behaviours that potentially breach the new law. It also recommends that <b>a legal requirement should be added for expert-led training to be put in place for all legal practitioners who may be involved in prosecuting and defending domestic abuse cases, including judges.</b></p> <p>NIACRO states that there should be <b>mandatory training for the judiciary on domestic abuse.</b></p> <p>The Women's Policy Group recommends <b>mandatory training for the PSNI on domestic abuse.</b></p>	<p>awareness as what constitutes domestic abuse.</p> <p>The training and the guidance will cover specific issues such as the impact of domestic violence and abuse on women and children, a wider understanding of men as victims of domestic violence and abuse, the particular needs of different groups of people including LGBT and other marginalised and vulnerable groups and obligations to report and take appropriate action in suspected cases of domestic violence affecting children.</p>
<p><b>Educational Programmes on Healthy Relationships</b></p> <p>A number of organisations have highlighted the need to</p>	<p>These issues are already covered under Relationship and Sexuality Education (RSE) which is part of the statutory curriculum under the Personal Development and Mutual Understanding (PDMU) area of</p>

raise the awareness of children and young people on what a healthy relationship looks like, what it looks like to be on the receiving end of physical, coercive and/or controlling abuse and the character traits/behaviour that can often lead to abusive relationships, particularly now that the new offence can apply to relationships of young people under 18. It could also challenge myths and stereotypes and look at mental health, well-being and resilience.

The Education Authority notes the continued need for a comprehensive preventative curriculum in relation to issues around domestic abuse and the need to ensure all pupils have access to this and has indicated that further consideration should be given to how the preventative curriculum can complement and support the introduction of the new offence.

learning at primary school level and the Learning for Life and Work (LLW) area of learning at post primary level. This provides a statutory minimum entitlement for all young people.

At Key Stage 3, schools provide opportunities to explore a range of RSE topics such as the qualities of relationships; the implications of sexual maturation; the emotional, social and moral implications of early sexual activity; the influences of on physical and emotional/mental personal health; and develop an understanding about, and strategies to manage, the effects of change on body, mind and behaviour.

The PDMU curriculum, which is delivered to all pupils from Foundation Stage to Key Stage 2 (age 4 to 11), includes At Key Stage 3 (age 11 to 14), under the LLW area of learning, pupils must be provided with the opportunity to explore the different ways to and to investigate the influences on physical and emotional/mental personal health. This is expanded upon at Key Stage 4 (age 14 to 16) when pupils should be enabled to develop an understanding of how to the

Whilst RSE is, therefore, mandatory for all pupils of compulsory school age it is the responsibility of schools to ensure that an age appropriate, comprehensive programme is delivered. Beyond the statutory minimum content, as in all areas of learning across the curriculum, schools and teachers have the flexibility to decide the topics and approaches that best suit their pupils and how that fits with the school's overall ethos. This presents a number of advantages in relation to the teaching of RSE. Schools and teachers are able to use their professionalism to update and align curricular learning to reflect evolving societal thinking and behaviour. Schools are also required to have an RSE policy,

	<p>reflecting their ethos and the views of parents, pupils and governors.</p> <p>To support schools in the delivery of all areas of learning across the Northern Ireland curriculum, including RSE, the Council for the Curriculum, Examinations and Assessment (CCEA) develops and produces a range curricular guidance and teaching support materials. In 2019 CCEA launched an RSE hub to provide an easy access for teachers and pupils to a range of up-to-date, relevant resources and sources of support on a number of key priority issues provide resources to enable children to:</p> <ul style="list-style-type: none"> <li>• explore and manage their feelings and emotions;</li> <li>• examine the importance of keeping healthy;</li> <li>• discuss self-esteem;</li> <li>• maximise and sustain their own health and well-being;</li> <li>• recognise healthy and unhealthy relationship behaviour;</li> <li>• recognise and manage risk, and respect themselves and others;</li> <li>• develop their understanding about the positive effects of healthy relationships on their mental health and well-being; and</li> <li>• recognise the negative and potentially long-lasting impact of unhealthy relationships.</li> </ul> <p>The RSE Hub can be accessed at <a href="http://ccea.org.uk/curriculum/rse">http://ccea.org.uk/curriculum/rse</a>. It is of course a matter for schools to decide which, if any, of these resources they use to inform the development and delivery of an RSE programme.</p>
<p><b>Public Awareness Campaign</b></p> <p>Many organisations have stated that a public awareness</p>	<p>The Department intends to bring forward a multi-media advertising campaign, building on the previous ‘See the Signs’ campaign to raise public awareness of the new offence. This campaign will</p>

<p>campaign/communications strategy to enable the public to understand what is now criminal behaviour under the law, the nature of the new offence and its impact on victims will be vital if the legislation is to have the desired effect and protect victims and prosecute perpetrators.</p> <p>This will be particularly important for vulnerable or hard to reach groups including communities where English is not a first language.</p> <p>The evidence indicates that the campaign needs to be:</p> <ul style="list-style-type: none"> <li>▪ Multi-lingual</li> <li>▪ Reflect a variety of relationships in a campaign across multiple platforms</li> <li>▪ Reach out to younger people experiencing domestic abuse who currently do not see themselves reflected in the public conversation</li> <li>▪ tailored to represent the diverse backgrounds and experience of domestic abuse</li> <li>▪ specifically directed at groups which are less likely to report experiences of domestic abuse such as LGBT people</li> <li>▪ be co-developed with specialist community-based organisations</li> </ul> <p>The Campaign could also highlight avenues of support for victims including how to seek help through the PSNI, how to access emergency accommodation and how to access domestic violence and abuse support organisations.</p>	<p>raise awareness of the fact that domestic abuse can affect anyone, regardless of gender or sexual orientation.</p> <p>The campaign will be across multiple platforms in order to reach vulnerable and hard to reach groups. Consideration can be given to how best information can be disseminated within hard to reach groups and those for whom English is not their first language.</p> <p>The view of voluntary and community sector organisations, which specialise in domestic abuse, will be considered as part of the development of the campaign. Similar to the previous campaign it will clearly advise how support can be accessed, encouraging those affected to report to the police or contact the 24hr domestic and sexual abuse helpline.</p> <p>The guidance associated with the new offence, which will be published, will also be central to providing information and raising awareness as what constitutes domestic abuse.</p>
<p><b>Register of Stalkers and Domestic Abusers</b></p> <p>The South Eastern DSVP and the South Eastern Health</p>	<p>There is no sex offender register rather sex offenders are subject to statutory notification requirements, set out in law, which requires them to notify the police of certain personal information. The</p>

and Social Care Trust recommend that **a register of Stalkers and Domestic Abusers is established similar to the sex offenders register stating that a greater emphasis is required on monitoring this cohort of perpetrators so they are held accountable for their actions and the imbalance of expecting victims to protect themselves is addressed.**

statutory framework does not provide for the information to be held on a central database so there is no central list of sex offenders that could be replicated for other purposes.

While there are currently no plans to introduce a register for domestic abuse offenders or stalkers in Northern Ireland (there are no such registers in the rest of the UK either) the Protection from Stalking Bill, which is planned for Introduction to the Assembly this autumn, is however, very much focussed on protecting the victim. The Bill will create a new specific offence of stalking and will offer protection for victims by introducing provision for Stalking Protection Orders (SPO).

The SPO will allow early intervention by police to ensure that the victim is protected from the outset. Police will be able to apply to the courts for a SPO, before any conviction of stalking is made, thus taking the onus away from the victim to protect themselves. The SPO will impose notification requirements on the perpetrator, which means they must advise police of their personal details and any changes to those details. The SPO will also allow restrictions to be imposed on the perpetrator as well as positive or therapeutic interventions such as attending a mental health programme. Breach of SPO requirements, restrictions, or failure to notify will result in an offence being committed.

It is proposed that a SPO should have effect for a fixed period of at least two years and can be renewed if necessary on application by the police to the courts, which means that victims will be protected from the perpetrator for as long as a risk to their safety remains.

In addition to sexual offending, **notification requirements have been established in statute for** violent offending behaviours as well as

human trafficking. Again, these statutory provisions require offenders, who are subject to the notification, to routinely advise police of their personal details and any changes to these details as well as any intentions to travel within the UK as well as outside of it.

The Department considers that the current arrangements in place, managed by police and in partnership with other risk management partners, manage the risk posed by domestic violence perpetrators. That said, the Department continues to keep this issue under review as well as monitoring developments in neighbouring jurisdictions.

Under existing arrangements, details of those convicted of violent offences (including domestically motivated) will be included on the Police National Computer (PNC) which is a UK-wide database. The Department considers that once its new domestic abuse offence - to create a new criminal offence of coercive control locally - has been introduced, offending information in this area will be included on PNC also, as is the case in the other UK jurisdictions. Offender details may also be captured on the police Dangerous Persons Database, which enables police to manage risk and depending on the level of risk posed, perpetrators may be eligible for management under the Public Protection Arrangements Northern Ireland.

Further, specific provision was made in the Violent Offences Prevention Order (VOPO) to help ensure capture of habitual offenders, who as part of their court order, would be subject to notification requirements for the duration of the order, which could be between two and five years. The court order is also tailored to target particular offending behaviours, with the ability of the court to

	<p>place both positive requirements, as well as prohibitions on the offender.</p> <p>The Department also considers that information provided through the Domestic Violence and Abuse Disclosure Scheme, which was introduced in March 2018 and which operates in conjunction with schemes across the rest of the UK, continues to play an important role in managing risk and protecting victims from harm. Working in partnership with a wide range of statutory and voluntary sector partners, the scheme enables an individual to ask the police whether their partner, or the partner of someone they are concerned about, poses a risk ('right to ask'). Police can also pro-actively advise an individual that their partner poses a risk and good use has been made of this mechanism by police to date.</p>
<p><b>Child Contact Orders</b></p> <p>A range of organisations raised issues regarding Child Contact Orders. Comments included:</p> <p><b>Unsupervised child contact for a parent on bail for domestic violence and abuse, or where there are ongoing criminal proceedings should be prohibited.</b></p> <p>Child contact in cases of domestic abuse should be based on an informed judgement on what is in the best interests of children, not the presumption of parental involvement – <b>Women's Project Group</b></p> <p>'Plausibly' changing child contact arrangements with little or no notice with the aim of undermining the independence of person B or decrease their free time with which to work, pursue new friendships or relationships is an example of sophisticated, nuanced and</p>	<p>The Department of Finance is responsible for the substantive law on private family law matters including contact with a child. However, under the Children (Northern Ireland) Order 1995, the welfare of the child is the court's paramount consideration in determining any application for contact and in considering the child's best interests the court is specifically required to have regard to any harm which the child has suffered or is at risk of suffering. In addition, where a court is considering whether to make a contact order in favour of a party who is subject to a non-molestation order (or against whom the court is considering making such an order) under Article 12A of the Children (Northern Ireland) Order 1995, the court is specifically required to consider whether the child has suffered, or is at risk of suffering any harm through seeing or hearing ill-treatment of another by that party.</p> <p>The Department of Justice intends to bring forward an amendment to the Bill (with the agreement of the Department of Finance) to amend Article 12A of the 1995 Order so that a court will be</p>



targeted action undertaken to control or cause harm to that person. Links between domestic abuse and wider family proceedings merits attention, including how the safety of those who experience abuse, both partner and child, are prioritised through child contact arrangements—

#### **Relate NI**

Contact should be provided to promote a positive bond between child and parent however an assessment of risks related to domestic violence, coercion and control should be considered in relation to contact between a parent and child – **SEHSCT**

In NI there is a presumption of contact and direct contact is mandated by the court with the abusing parent without taking adequate cognisance of the quality and purpose of contact can serve the continuous facilitation of the abuse. Assessments co-ordinated by family & child care social workers should mitigate against this and ensure ongoing contact is to promote a positive bond between a child and parent and not to facilitate ongoing coercive control and abuse – **South Eastern DSVP**

Abuse is perpetuated by the making of false allegations by the abuser, not abiding by court orders, using the lack of expedience and consequence in the system to their advantage to frustrate attempts to have contact with children – **MANi**

Many family court decisions will allow for a child to have unsupervised contact with an alleged perpetrator, when they may already be on bail for committing violent

required to have regard to any conviction of a party for a domestic abuse offence that was aggravated by reason of involving a child, when considering whether to make a contact (or residence) order in favour of that party in relation to the child.

There is no statutory presumption of contact in Northern Ireland such as there is in England and Wales. As noted above, the Children (Northern Ireland) Order 1995 makes the welfare of the child the court's paramount consideration. The Gillen Review of Family Justice, specifically considered the issue of contact orders and child arrangements in the context of domestic abuse and recommended the introduction of a judicial Practice Direction in Northern Ireland (similar to one in England and Wales), which would set out what the court is required to do in any case in which it is alleged or admitted, or there is other reason to believe, that the child or a party has experienced domestic abuse perpetrated by another party, or that there is a risk of such abuse. This recommendation is for the judiciary to consider.

<p>offences against the victim. This is putting the child at unnecessary harm and a real source of worry for a parent - <b>Women's Advocacy Project</b></p> <p>There is a direct correlation between parental alienation and domestic abuse. Perpetrators seek continual control of the victim. Acknowledgement is required from the Department of Justice and the Department of Health of the emotional and psychological harm caused to children. Family contact orders are not enforced. There are no consequences for those who (repeatedly) make false allegations [against the alienated parent]. – <b>La Dolce Vita Project</b></p> <p><b>Women's Aid supported by a range of other women's organisations is urgently recommending that a review takes place to improve the safety of child contact</b> through a range of measures including:</p> <ul style="list-style-type: none"> <li>▪ Prohibiting unsupervised contact for a parent on bail for domestic violence and abuse related offences or where there are ongoing criminal proceedings for domestic abuse</li> <li>▪ A change in the law to ensure that child contact arrangements in cases of domestic violence and abuse are decided on an informed judgement of what's in the best interests of the child and not on the presumption of parental involvement</li> </ul>	
<p><b>Review of the Court System</b></p> <p>The Public Prosecution Service has advised that a pilot Domestic Abuse court should be operational by the end</p>	<p>Work is ongoing with the judiciary around the piloting of listing arrangements at Laganside Magistrates court later in the year, which would enable the clustering of domestic assault cases, accompanied by improved file quality processes and support for</p>

<p>of 2020 which should significantly improve the experience of victims of domestic violence and reduce delay in bringing the cases to conclusion.</p> <p>Some organisations however want to see a more joined-up approach between the criminal, civil and family courts so that each is aware of actions in the other courts and there are strong linkages between the courts rather than the current fragmented approach.</p> <p>Victim Support, in its oral evidence, highlighted that one of the problems is that there are often cases running in two places at once and if there was one trial, all aspects that affect an individual case could be considered. In its view that would make a significant improvement for individuals.</p> <p>Organisations such as Women's Aid, NIWEP, the Women's Resource and Development Agency, CiNI, the Women's Policy Group and HEReNI/Cara Friend supports calls for a wider review in the form of an independent statutory inquiry of the family court system and how they are dealing with domestic violence and abuse cases and to work towards a consistent response across jurisdictions.</p> <p><b>NIPSA recommends the introduction of a dedicated specialist domestic abuse court similar to Scotland.</b></p>	<p>high risk repeat victims. There will be an increased focus on ensuring that prosecutions can proceed in the absence of a victim giving evidence. It is hoped that the processes may also improve the current attrition rate.</p> <p>It would be the responsibility of the legal representatives to bring relevant information to the attention of the family court judge, bearing in mind the rights of all parties to a fair hearing.</p> <p>It is understood that the Ministry of Justice plans to pilot integrated domestic abuse courts (IDAC) that address criminal and family matters in parallel. The Department wishes to monitor progress and consider further when the pilots are evaluated.</p> <p>The Department of Justice (along with other departments with responsibilities in relation to family justice and the judiciary) is still considering the many and wide-ranging recommendations of the Gillen Review of Family Justice. As noted above, the Review specifically considered the issue of contact orders and child arrangements in the context of domestic abuse and recommended the introduction of a judicial Practice Direction in Northern Ireland (similar to one in England and Wales), which is for the judiciary to consider.</p> <p>The Department of Justice is considering whether any of the legislative measures recommended by the Expert Panel for England &amp; Wales (relating to matters for which the Department has policy responsibility) might usefully be adopted in this jurisdiction.</p>
<p><b>Funding and Resources</b></p> <p>A common theme throughout the evidence received is that appropriate funding and resources is vital to ensure</p>	<p>Criminal justice partners such as the police, Public Prosecution Service, Probation Board and others are aware of the need to budget for the introduction of the offence.</p>

the legislation is enacted effectively and training and support services must be properly supported and resourced across all sections of the wider criminal justice sector, the health and social welfare sector and the community sector.

Women's Aid states that "the new legislation needs sustainable funding which enables life-saving specialist services, and the public sector agencies that respond to domestic abuse, to meet the increasing demand for help and ensure every victim and survivor gets the support they need."

Specific areas raised include:

- This will not be 'resource neutral' and essential frontline services need to be adequately funded
- It will be important to fully fund specialist support services for vulnerable groups including LGBT+ groups, BME people, people with disabilities and young and older people
- The need for bespoke support for children and young people to assist in recovering from witnessing or experiencing domestic abuse
- The need for additional provision to better protect and support victims of domestic abuse who have insecure immigration status and enable them to safely leave an abusive relationship
- Resources, including adequate police resources, are required to support training and ensure robust investigations of complaints
- When allocating financial resources, protection and

For many cases they will not involve new behaviours as such, rather incidents that are already being brought forward through the criminal justice system and have to be progressed through other less appropriate or potentially effective charges given the circumstances of the case. It is expected that any additional investigative and prosecutorial work with the introduction and operation of the new offence will be balanced somewhat by a reduction in other types of offences being progressed.

For example a number of cases that would have been taken forward such as criminal damage, grievous bodily harm or assault charges could form part of the new domestic abuse offence.

Statutory bodies and partner organisations have been involved in discussions during the preparation of the Bill. Officials have also engaged with colleagues nationally to look at the potential for increased costs for statutory organisations, which it is considered could be in the region of 3%.

It is also considered that in many of the cases, victims of the new offence will already be being supported by voluntary sector partners, given that the incidents are already being brought forward through the criminal justice system albeit under other less appropriate or potentially effective charges. It is likely that the offence will build on cases that could otherwise be in the system involving physical abuse or violence.

Any tendering of services is undertaken in line with wider government procurement advice.

<p>support should be victim-centred and should not create an inequality in provision across jurisdictions</p> <ul style="list-style-type: none"> <li>▪ Adequate resourced support for victims across the spectrum of needs from counselling to the availability of appropriate programmes/measures to assist them in rebuilding their lives is required</li> <li>▪ Barriers to interfacing with the criminal justice system need to be removed including the need for interpreters, cultural support workers and victim advocates.</li> </ul> <p>Some organisations have indicated that a review of tendering and procurement of domestic violence and abuse services is required. A wider review of funding for services for domestic abuse victims and survivors would also be timely to complement the legislation.</p> <p>NSPCC advocates a duty on Health and Social Care Trusts to provide support services for adults and children affected by domestic abuse.</p> <p>The Belfast DSVP would welcome the rollout of the IRIS project, which provides much needed resources and training to GP practices on domestic abuse and has been shown to be very successful in other parts of the UK in identifying and referring people in need of support to appropriate agencies, across the whole of Northern Ireland.</p>	<p>For criminal proceedings, the PPS Victim and Witness Care Service will often refer complainants to Victim Support NI and other voluntary services.</p> <p>It is understood that voluntary sector service providers often accompany and support domestic abuse victims attending Final Hearings and Domestic Abuse hearings.</p> <p>The Victim Charter is a Charter for victims of crime. It explains entitlements of victims of crime and the standard of service they can expect from criminal justice organisations. Most of the services and entitlements under the Charter will only be relevant where the crime has been reported to the police and there are criminal proceedings. This includes an entitlement to free access to <b>interpretation services</b>, where requested. The police and Victim and Witness Care Unit will assess whether language difficulties mean that the victim cannot understand or speak English and they cannot effectively communicate with the victim. This will include whether they need interpretation to take part in any interviews or questioning during criminal proceedings or need translation of any decision to end criminal proceedings (including the reasons for this). A victim can ask for an interpreter of a particular sex, where the crime involves gender-based violence.</p> <p>The Charter is supplemented by a shorter summary version. The summary document and victim of crime information leaflet are available in a number of other languages besides English (Latvian, Lithuanian, Mandarin, Polish, Portuguese and Romanian).</p> <p>The Department also provides almost £1.9m to fund services to victims of crime, covering three core areas, offering support to almost 60,000 victims of crime annually. This includes emotional</p>
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	<p>and practical support, support services at court and also through assisting with criminal injuries compensation applications.</p> <p>The Department intends to introduce a new advocacy support service next year that would provide assistance to those that have been affected by domestic and/or sexual abuse.</p> <p>The Department of Health is currently piloting the IRIS programme ('Identification and Referral to Improve Safety'), in GP practices in East Belfast and Newry/Down GP Federations. The pilot involves two full time advocates training practice teams to help them identify patients affected by domestic and sexual abuse (women and men) and make referrals to them, so that patients can receive specialist advocacy support. The Department also understands that the Southern HSCT is piloting a Domestic Violence and Abuse Worker within Craigavon A&amp;E. It is important for the Department of Health to consider future evaluations of these pilots to establish an evidence base, specific to Northern Ireland, before committing to a possible roll-out of IRIS across the whole of Northern Ireland.</p> <p>The Health and Social Care (Reform) Act (NI) 2009 2(1) (a) and (b) places a statutory duty on the Department of Health to promote in Northern Ireland an integrated system of—</p> <p>(a) health care designed to secure improvement—</p> <ul style="list-style-type: none"> <li>(i) in the physical and mental health of people in NI, and</li> <li>(ii) in the prevention, diagnosis and treatment of illness;</li> </ul> <p>and</p> <p>(b) social care designed to secure improvement in the social well-being of people in NI.</p>
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	<p>In its delivery of this duty the Department of Health calls upon the Health and Social Care Board to commission the 5 HSC Trusts to provide integrated health and social care services across Northern Ireland. Each Trust has a duty to exercise its functions with the aim of improving the health and social wellbeing of, and reducing the health inequalities between, those for whom it provides, or may provide, health and social care. This would include, but is not limited to, relevant support services for adults and children affected by domestic abuse.</p> <p>The 'Adult Safeguarding – Prevention and Protection in Partnership' Policy requires that each HSC Trust will have an Adult Protection Gateway Service which will receive adult protection referrals.</p> <p>The Adult Protection Gateway Service provides a central point of referral to Health and Social Care Trusts for anyone worried about domestic or sexual violence or abuse of an adult.</p>
<p><b>Research into the factors contributing to levels of domestic abuse</b></p> <p>The Methodist Church believes that it is essential to understand the factors contributing to the levels of domestic abuse and research should be promoted and funded to inform strategies which might reverse it. Research areas could include factors that negatively or positively impact on the cycle of learned abusive behaviour; interventions which reduce re-offending; the</p>	<p>This is an issue that will be further considered in bringing forward the new domestic and sexual abuse strategy. The Strategic Delivery Board, in conjunction with the Stakeholder Assurance Group, can also assess research requirements and commission research where required.</p> <p>Findings from the NI Safe Community Survey domestic violence modules (undertaken in alternate years) will also be used to inform policy development going forward.</p>

<p>role of pornography in sexual violence; and the long term outcomes for victims and children.</p> <p>The Rainbow Project has highlighted that the absence of research by statutory authorities on the experiences of LGBT people is particularly relevant in considering domestic abuse where LGBT people are made invisible.</p>	
<p><b>Guidelines to Employers and Recognising Domestic Violence as a Workplace Issue</b></p> <p>A number of organisations have highlighted the need to recognise domestic violence as having an impact throughout society including in work and have recommended the provision of special leave.</p> <p>The Women's Policy Group notes that some employers are proactive at working with unions to ensure that victims of violence and abuse are supported in work, it believes that additional measures are now necessary and notes that other parts of the UK have introduced legislation which places a duty on Government and Local Government to develop and implement strategies and actions plans.</p> <p>It recommends <b>the development of an act similar to the Women, Domestic Abuse and Sexual Violence (Wales) Act 2015 and place a strategic public duty on the Executive to prepare, publish and review a strategy which:</b></p> <p>(a) Places a duty on public sector bodies to prepare and implement local strategies;</p>	<p><b>Input on workplace issues to be provided separately by the Department for the Economy on the return of their Minister from annual leave.</b></p> <p>The seven year Stopping Domestic and Sexual Violence and Abuse Strategy was published jointly by the Department of Justice and the Department of Health in 2016. The Strategy's annual action plans include actions for other Executive Departments including the Department for Education and the Department for Communities. Accordingly, it is not considered that legislation is required to place a duty on the Executive to produce a strategy.</p> <p><i>Employer Guidance on how to develop a Workplace Policy on Domestic and Sexual Violence and Abuse was published under the Strategy in Nov 2018. Further consideration will be given to how best to work collaboratively with interested parties (including the NI Civil Service) to further promote this.</i></p>



<p>(b) Requires the development of a National Training Framework;</p> <p>(c) Places a duty to publish National indicators that may be applied for the purpose of measuring progress towards the achievement of the Act;</p> <p>(d) Gives the power to issue statutory guidance including in relation to workplace policies to promote the well-being of employees of relevant authorities who may be affected by gender-based violence, domestic abuse and sexual violence; training for the members and staff of a relevant authority; the sharing of information between relevant authorities or by a relevant authority with another person; co-operation between relevant authorities or between a relevant authority and other persons.</p> <p>This recommendation is supported by other groups including the Women's Regional Consortium.</p>	
<p><b>Violence Against Women and Girls Strategy</b></p> <p>The organisations representing women note that the UK domestic abuse legislation is accompanied by Strategies and Action Plans that help to support the legislation and many of these do not exist in Northern Ireland.</p> <p>They also highlight the lack of a Violence Against Women and Girls Strategy for Northern Ireland despite other parts of the UK including Scotland having its own strategy and believe that the development of such a strategy for Northern Ireland should have formed part of the New Decade New Approach document in order to ensure that</p>	<p>It is recognised that during 2018/19 69% of all domestic abuse crime victims were female. However, it must also be remembered that just under a third of victims were male, while around 40% of domestic homicides involve males. The Bill seeks to protect <u>all</u> victims regardless of gender, gender identity, age or sexual orientation. This is in line with the strategy definition.</p> <p>The seven year strategy clearly emphasises that domestic abuse has no boundary and that victims of this abhorrent crime are impacted regardless of their gender, gender identity or sexual orientation, amongst other factors. The strategy was developed in full consultation with statutory and voluntary sector partners representing the interests of all aspects of society.</p>

<p>women and girls are protected from all forms of gender-based violence.</p>	<p>In delivering the commitments of the strategy through annual action plans, the Departments continue to work with a wide range of partners to try and ensure full inclusivity of all sections of the community.</p> <p>There would be concerns that the adoption of a gendered strategy could send out a message that tackling abuse against men is less important.</p>
<p><b>Specialist Rehabilitation Programmes</b></p> <p>The NI Probation Board has highlighted that the Department is currently evaluating the effectiveness of ‘Promoting Positive Relationships Programme’, an innovative programme of intervention with adult males who have demonstrated the propensity to be abusive in intimate relationships, and who may be at risk of entering the criminal justice system, and whose children have been assessed as at risk by Social Services.</p> <p>Several organisations including Nexus, NIACRO and Relate NI have stated that, in addition to the statutory provision for people who recognise their need of support to change, <b>it is important to consider the provision of specialist rehabilitation programmes for offenders</b> to ensure perpetrators take responsibility for their actions and impact on others and to assist in preventing repeat offenders. Without such robust programmes behaviours cannot be changed and the harm caused cannot be addressed.</p>	<p>A range of work is being undertaken in relation to behavioural change programmes. At present work can be undertaken with individuals by the Probation Board for Northern Ireland as part of the sentence handed down by a court. In this respect the Probation Board for Northern Ireland continue to deliver two court mandated programmes as additional requirements of a licence or order:</p> <ul style="list-style-type: none"> <li>(i) <b>Building Better Relationships</b> – a nationally accredited group work programme for male perpetrators of violence and abuse within intimate relationships. This aims to increase understanding of motivating factors in domestic abuse and reduce further incidents.</li> <li>(ii) <b>Respectful Relationships Interventions</b> – an intervention delivered one-to-one to develop awareness of what constitutes healthy, unhealthy and abusive relationships.</li> </ul> <p>An important component of both programmes is the Partner Support Worker, who supports the current (and if appropriate previous partner) of the participant, assists with safety planning, provides information about the programme and signposts to partner agencies, such as Women’s Aid.</p>

	<p>A more general pilot of court mandated behavioural change programmes was undertaken in Londonderry Magistrates Court in 2018. Uptake of this was much lower than expected. An evaluation of the programme has been undertaken and the Department is currently considering next steps.</p> <p>In addition, as part of its Problem Solving Justice approach the Department is piloting behavioural change programmes for those that are showing concerning behaviour but have not yet reached the criminal justice system. This is the second year that this has been funded across the five trusts in Northern Ireland for up to 60 individuals. Further decisions on the way forward will be dependent on the outcome of evaluations of the piloted programmes.</p>
<p><b>Multi-Agency Collaborative Approach</b></p> <p>A number of organisations have emphasised the importance of a cross-departmental and agency approach to implementing this legislation to ensure it is successful and adequately resourced.</p> <p>Full consultation, communication and a collaborative approach with the voluntary and community sector on implementation is also essential.</p> <p>Organisations also want a co-design approach adopted for any future initiatives and legislation.</p>	<p>A multi-agency Task and Finish Group was established to consider the criminal provisions in the Bill. This involved a range of voluntary sector partners including Action on Elder Abuse, Men's Advisory Project, NSPCC, Nexus and Women's Aid Federation as well as representatives from police, the Probation Board and the Public Prosecution Service. This engagement has been critical in ensuring that the provisions are as robust as possible. This multi-agency approach is adopted for all new initiatives relating to domestic abuse and this will continue in relation to any future initiatives or legislation.</p> <p>A cross-departmental and agency approach to implementation of the legislation will also be adopted with multi-agency Task and Finish Groups to be set up to look at operationalisation of the new offence as well as awareness raising. Voluntary and Community Sector organisations will be invited to sit on the latter.</p>
<b>Clare's Law</b>	The Domestic Violence and Abuse Disclosure Scheme (DVADS)

<p>According to Mid and East Antrim Borough Council, currently, due to the sensitive information involved, disclosure under 'Clare's Law' is at the discretion of each police force.</p> <p>Noting that the UK Domestic Abuse Bill seeks to create a legal foothold for 'Clare's Law' meaning that victims would have a legal right to check the offending history of their partner and this would no longer be at the police force's discretion, the Council is of the view there is merit in considering this approach.</p>	<p>was introduced in Northern Ireland in March 2018 and the procedures used to operate the scheme are applied in a consistent way by PSNI across the jurisdiction. There are no areas in Northern Ireland where PSNI do not operate the scheme and the scheme's operation continues to be monitored by the Department. The Northern Ireland scheme was developed following learning from scheme frameworks established in England and Wales and Scotland, as well as their operational delivery.</p> <p>Northern Ireland (and Scotland) differs from England and Wales in that the scheme is operated by one police force as opposed to 43 different police forces in England and Wales. Specific issues in applying operational consistency in England and Wales has given rise to the need to place its scheme's guidance on a statutory footing – as part of the Westminster Domestic Abuse Bill. It should be noted that it is a requirement to publish guidance which is being placed on a statutory footing, not the scheme itself.</p> <p>The Department does not consider the need to place its operational guidance on a statutory footing given its smaller jurisdictional size, its operation by a singular police force which has formed close working partnerships and also because the scheme is in its infancy, as compared to the other UK jurisdictions. Furthermore, any issues regarding inconsistency in practice are addressed as part of the Department's monitoring process. A formal evaluation of the scheme is also to be carried out later this year.</p>
<p><b>Offence of Upskirting</b></p> <p>The NI Human Rights Commission notes that in England and Wales the Voyeurism (Offences) Act 2019, which criminalises upskirting, came into force on 12 April 2019</p>	<p>Legislative proposals to make upskirting a specific offence will be included in a Justice Bill planned for introduction in early 2021.</p>

<p>and similar legislative provision has been made in Scotland through the Sexual Offences (Scotland) Act 2009.</p> <p>Noting that there are no similar provisions that currently provide for the specific offence of upskirting in Northern Ireland <b>the NIHRC recommends that the Department introduces a specific criminal offence of upskirting in Northern Ireland and ensures effective protection of victims or potential victims without further delay, to ensure compliance with the Istanbul Convention.</b></p>	
<p><b>Domestic Abuse Survivors' Statutory Defence</b></p> <p>Whitehead and Carrickfergus Soroptimists Club states that law reform is urgently needed to prevent women being imprisoned for offences linked to their own prior victimisation and sees the Bill as a unique opportunity to take action to strengthen the legal protection for women whose offending is driven by abusive and coercive relationships.</p> <p><b>It proposes the creation of a new statutory defence for survivors whose offending is driven by their experience of domestic abuse, modelled on that which applies to victims of trafficking and a modification of the law of self defence akin to the 'householder defence'.</b></p>	<p>The Department is currently developing a strategy to support and challenge women and girls who come into contact with the justice system. The strategy to empower change is likely to have a three-strand approach, focusing on prevention/diversion, community and custody. A public consultation is due to launch in the Autumn.</p> <p>More generally it is considered that the suggested provision would be outside the scope of the Bill.</p>
<p><b>Coercive Abortions</b></p> <p>Evangelical Alliance has indicated that it is aware of a gap</p>	<p>The Department considers that existing criminal law in the Offences Against the Person Act 1861 may provide protection to women against forced or coercive abortion.</p>

<p>in the Northern Ireland legislation around coercive abortions since the law was changed in October 2019 and <b>has asked if a provision could be added specifically to include protection of vulnerable women (and their unborn children) in situations where there is coercion, physical or non-physical, to end the pregnancy through abortion</b> – the Committee discussed this proposal with Evangelical Alliance during the evidence session on 25 June 2020 and the Hansard of the discussions provides further information.</p>	<p>Section 24 of the OAPA 1861 provides for an offence of unlawfully and maliciously administering or causing to be administered to or taken by any other person any poison or other destructive or noxious thing, with intent to injure, aggrieve or annoy such person. Whosoever shall unlawfully and maliciously administer to or cause to be administered to or taken by any other person any poison or other destructive or noxious thing, with intent to injure, aggrieve, or annoy such person, shall be guilty of a misdemeanor.</p> <p>Decisions on prosecution under this offence would be a matter for the Public Prosecution Service.</p>
<p><b>Views of Children to be given due weight</b></p> <p>The Children’s Law Centre recommends that, in line with the UN Committee on the Rights of the Child, <b>there is a clause inserted into the Bill to ensure that the views of children concerned in the responses to violence are given due weight, including in criminal and family law proceedings.</b></p>	<p>The Victim Charter (for which the police and Public Prosecution Service are service providers and which is on a statutory footing) states that in providing services under the Charter, where the victim is a child or young person, the best interests of the child or young person will be a primary consideration and will be assessed on an individual basis. It also states that a child sensitive approach will be adopted, taking due account of their age, maturity, <u>views</u>, needs and concerns.</p> <p>The Charter states that a child or young person under 18 will be presumed to have specific protection needs and should receive the highest level of support and protection as they move through the criminal justice system.</p> <p>When giving evidence a person under 18 is automatically eligible for special measures (including video recorded police statement and giving evidence by live link. This would also include pre-recorded cross examination ahead of trial when introduced (likely for sexual offences for under 13s in the first instance)). The views of the child are also taken into account in this regard.</p>

	<p>The Children (Northern Ireland) Order 1995 already provides that in considering the child's best interests when deciding whether to make an order in relation to arrangements for a child, such as a residence or contact order, the court must have regard to the ascertainable wishes and feelings of the child (considered in the light of his/her age and understanding).</p>
<p><b>Further Equality Screening</b></p> <p>The Children's Law Centre (CLC) asserts that, given that clauses 11 and 17 now exclude many under 18s from the protections afforded in the legislation, the equality screening undertaken as part of the consultation on the policy proposals in 2015/16 no longer stands.</p> <p>CLC believes that there will be differential adverse impact and consequently <b>the Department is required to carry out an equality screening exercise, a full Equality Impact Assessment, consultation and propose mitigation. In failing to do so the Department will have breached its Section 75 duty</b> and CLC states that the importance of carrying out a full Equality Impact Assessment in relation to this legislation including considering alternative measures cannot be overemphasised.</p>	<p>The Department gave careful consideration to the scope of the domestic abuse offence in order to ensure that children could be captured within it, in their own right, where they are in a relationship or are a family member (except where parental responsibility applies, in order to prevent criminalisation of this) and that aggravation related to a child could be reflected while preventing criminalisation of parental responsibility.</p> <p>Having considered the matter further, and taking account of the concerns expressed, the Department is having discussions with colleagues in the Department of Health around a possible amendment to child protection provisions (contained in health legislation but amendment of which could be brought forward through the Domestic Abuse Bill subject to agreement) to make it explicit that where a child is ill treated, that this would also include non-physical abuse. Such provision would make clear that it would be an offence whether the suffering or injury caused to a child was physical or psychological in nature, for example isolation, humiliation or bullying.</p> <p>The Children (Northern Ireland) Order 1995 provides a legislative framework for safeguarding children, including the protection of children, and powers to assume or secure parental responsibility for children when required.</p>

	<p>Under Article 66 of the Children Order, if a Health and Social Care Trust suspects that a child is at risk, or likely to be at risk of suffering significant harm, including emotional harm, it has a duty to investigate and to take action if needed to safeguard and promote the welfare of the child.</p> <p>‘Co-operating to Safeguard Children and Young People,’ the overarching policy framework for safeguarding children and young people, published in 2017, makes it clear that harm can be caused by emotional abuse.</p> <p>The draft Adoption and Children Bill, which the Department of Health hopes to introduce later this year, will add to the definition of “harm” in the Children Order so that it explicitly includes any harm caused to a child by seeing or hearing the ill-treatment of another. Adding to the definition in this way will place an explicit requirement on courts, police and authorities, in a range of contexts, to consider the effect of domestic abuse on a child when they are making decisions about him or her that require harm or potential harm to be taken into account.</p> <p>It is worth noting that the Children Order already requires a court, when considering whether to make a residence or contact order in favour of a prohibited person, to consider whether the child has suffered or is at risk of suffering any harm through seeing or hearing ill-treatment of another person by the prohibited person. A person is a prohibited person if either he is, or the court considers that he should be, prohibited by a non-molestation order under the Family Homes and Domestic Violence (Northern Ireland) Order 1998 from molesting another person.</p>
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	The overall effect of the additional change will be to make clear that harm to a child caused by witnessing domestic abuse must be considered in all circumstances governed by the provisions of the Children Order, and not just when a court is considering making a residence order or contact order in favour of a prohibited person.
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