

## **Domestic Abuse and Family Proceedings Bill 2020**

### **Draft Health Committee response to call for evidence from Committee for Justice**

**5 June 2020**

#### **Introduction**

The Health Committee was invited by the Committee for Justice, on 13 May, to submit its views on the Domestic Abuse and Family Proceedings Bill, by 5 June.

The Health Committee decided on 14 May that, given the shared policy responsibility for this important matter, it wished to contribute its views.

Given the short deadline and its existing scheduled briefings focused on COVID-19, the Health Committee agreed to hold an additional meeting on 28 May to consider the Bill.

The Committee heard evidence from Women's Aid, the Men's Advisory Project and NSPCC. The Committee then heard briefing from, and put questions to, officials from the Department of Health and the Department of Justice. The meeting was recorded by Hansard and will be available on the Assembly website when published.

The submission from Women's Aid to the Committee is attached as Appendix 1. Any further written submissions received will be forwarded to the Committee for Justice.

The Committee agreed this report on the Bill on XXXX.

#### **Policy Context**

Responsibility for policy relating to domestic and sexual abuse in NI lies jointly with the Department of Justice and the Department of Health. The policy direction is derived from the 2016 Stopping Domestic and Sexual Violence and Abuse in Northern Ireland seven-year strategy<sup>1</sup>.

The most recent action plan for the Strategy is the draft Year 4 Action Plan<sup>2</sup>, which includes the following legislative commitments:

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<sup>1</sup> Department of Justice and Department of Health (2016), Stopping Domestic and Sexual Violence and Abuse in Northern Ireland - A Seven Year Strategy, March 2016, Belfast: DoJ and DoH: <https://www.justice-ni.gov.uk/publications/stoppingdomestic-and-sexual-violence-and-abuse-northern-ireland-seven-year-strategy-march-2016>

<sup>2</sup> Department of Justice and Department of Health (2019), Stopping Domestic and Sexual Violence and Abuse Strategy - Year 4 Action Plan, Belfast: DoJ and DoH, <https://www.health-ni.gov.uk/sites/default/files/publications/health/dsv-4-plan.pdf>

Strand 4: Introduce a new Domestic Abuse Offence and statutory aggravator<sup>3</sup>

Strand 5: Introduce Domestic Violence Protection Notices and Domestic Violence Protection Orders in Northern Ireland<sup>4</sup>.

The Bill addresses the legislative commitments in Strand 4, while the Minister for Justice has indicated that the commitments in Strand 5 will be addressed via further legislation in 2021<sup>5</sup>.

## **Evidence taken**

### Women's Aid Federation, NI

Ms Sonya McMullen, Regional Services Manager, Women's Aid Federation NI, briefed the Committee highlighting the importance of early detection; the fact that most victims will have come into contact with the health and social care system; that half of those impacted are children; and that the range of impacts spans mental and physical health, with strong links to self-harm and suicide. Women's Aid called for the roll-out of routine screening questions in additional settings, referring to the range of opportunities when people attend physiotherapy, radiography or other appointments. Women's Aid expressed support for the Bill but pointed to the omission of issues already included in the Domestic Abuse Bill in passage at Westminster, such as the establishment of a domestic abuse commissioner. Ms McMullen stressed the need to reform the family court to reduce hardship on children and parents. Referencing the importance of accommodation issues, she also said there was no equivalent of the £76 million emergency funding available in Great Britain.

The Women's Aid submission is attached as Appendix 1.

### NSPCC NI

Neil Anderson, National Head of Service, NSPCC NI, raised two main aspects of the Bill for scrutiny: firstly, the lack of focus on the health and social care aspects of domestic abuse and, secondly, the impact on children accused under the Bill. Mr Anderson said that the Domestic Abuse Bill, in passage in Westminster, could be

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<sup>3</sup> Priority 20: Continue to develop and deliver initiatives and interventions, based on best practice, to effectively address harmful, violent and abusive behaviour.

<sup>4</sup> Priority 18: Focused protection, support and information will be available for all victims throughout their engagement with the Justice System.

<sup>5</sup> Official Report (Hansard), Domestic Abuse and Family Proceedings Bill, second stage debate, 28 May 2020, pg.17

instructive in some regards, notably that only minors aged 16 or over could be charged under its provisions, whereas, in Northern Ireland, the provisions could apply from the age of criminal responsibility, which is much younger (age 10). He said the statutory guidance (on implementation of the Bill) would be very important. While NSPCC welcomed Clauses 8 and 9 regarding aggravation where a child is the victim or is involved in the offence, Mr Anderson said these provisions should be extended to recognise two victims, including a child impacted by the offence. Mr Anderson advised that NSPCC are neutral on the issue of a domestic abuse commissioner but open to discussion.

The NSPCC briefing note, attached as Appendix 2, was received after consideration of the draft report.

### Men's Advisory Project

Ms Rhonda Lusty stressed that dedicated funding was essential to the success of the Bill. She said the Bill created a great opportunity but that proactive decisions were required to commission relevant services. Ms Lusty said under-reporting of domestic abuse remained a significant challenge, sitting at approximately 21%, and referenced 31,000 reported domestic abuse incidents in 2019, of which 18,000 were crimes. She called for the lens to be widened to pay attention to the needs of those ignored and underscored that men were the victims of one third of domestic abuse incidents. MAP is also calling for consideration of how to deal with barriers to reporting such as communication or disability issues and believes the appointment of a domestic abuse commissioner should be examined further. Ms Lusty acknowledged that the Protect Life 2 suicide strategy points to domestic abuse victims as an at-risk group and highlighted the need for additional training for first responders. She said that all stakeholders such as MAP need to be more involved in wider mental health policy discussions.

### **Committee views**

The Committee for Health is supportive of the Bill, in principle, but believes that achieving its full potential is conditional on a number of factors including resourcing and support for victims of domestic abuse and education and awareness programmes as well as training for staff. The Committee believes assurances should be sought in relation to these matters, not all of which are addressed on the face of the Bill.

### **Clause 2**

The Health Committee welcomes the creation of a new offence to capture abuse not readily capable of prosecution under existing legislation. The Committee believes

that victims' and survivors' reliance on these provisions will hinge on the range of support available and their experience of the process from report to conviction.

#### Process and duration of proceedings

In order to encourage people to come forward and make use of the new offence, the Committee believes the time to conclude a case from start to finish must be shortened to minimise further trauma to victims and survivors, for whom the process can be very difficult to endure. NSPCC and Women's Aid flagged the potential benefits of more specialised courts, better equipped to ensure victims are supported and not re-traumatised.

#### Domestic Abuse Commissioner and Victims Advocate

The Committee discussed the potential benefits of a Domestic Abuse Commissioner, as included in the Westminster Bill, and the possible introduction of a Victims' Advocate to support victims through the legal process as part of a specialised court. Women's Aid referenced a related recommendation arising from the Gillen Review of the law and procedures in serious sexual offences<sup>6</sup>. The Committee believes such initiatives merit consideration and welcomes the indication by the Department of Justice official that an advocacy service was in development though it is not in the present Bill.

#### Paid leave

The Committee recommends the introduction of paid leave to facilitate victims of domestic abuse in making arrangements to separate from their partner and welcomed confirmation by officials that relevant Ministers are in correspondence on the matter.

#### Housing, homelessness and secure tenancies

Members heard evidence of the importance of housing and homelessness issues in implementing the legislation effectively. Ms Sonya McMullen, Regional Services Manager of Women's Aid Federation NI, advised the Committee that refuges are usually running at 100% occupancy and argued that every victim of domestic abuse should have the right to secure emergency accommodation. She stated that a new housing allocation system was to be introduced by the Department for Communities and referenced the broader approach adopted in the Domestic Abuse Bill in passage in the House of Commons. Ms Lusty of MAP advised that there are no refuges for men experience domestic abuse, though men are estimated to comprise around one third of victims.

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<sup>6</sup> <https://www.justice-ni.gov.uk/publications/gillen-review-report-law-and-procedures-serious-sexual-offences-ni>

The Committee notes the problems inherent in expecting a victim to move (often with children) out of the family home as a key step in dealing with abuse; a particular example is where the home is adapted to cater for disability. The Committee also acknowledges that the absence of sufficient refuge places could also limit effectiveness of the bill. Members discussed provision for 'secure tenancies' in Clause 65 of the Domestic Abuse Bill currently in passage in the House of Commons.

**Recommendation 1: The Health Committee recommends that assurances be sought that resources will be put in place to speed up and streamline the handling of domestic abuse cases from start to finish.**

**Recommendation 2: The Health Committee recommends that consideration be given to the introduction of a Victims' Advocate and/or a Domestic Abuse Commissioner.**

**Recommendation 3: The Health Committee supports the introduction of paid leave to facilitate victims of domestic abuse making arrangements to separate from their partner.**

**Recommendation 4: The Health Committee recommends that consideration be given to legislating for 'secure tenancies' for victims of domestic abuse.**

### **Clauses 8 and 9 – children and young people**

The Committee welcomes discrete recognition of the damage that can be done to children and young people, by seeing or hearing domestic abuse; or by being involved in abuse, such as when a child is used to contribute to emotional or psychological distress. This connects with a further cross-cutting area of policy in relation to Adverse Childhood Experiences.

**Recommendation 5: The Committee recommends that statutory guidance and associated training be provided to front-line responders on the implementation of Clauses 8 and 9.**

The Committee is also aware that young people could be convicted of abuse under the Bill. Members acknowledge the evidence that many young people found to be engaging in abusive behaviour are also victims of abuse and would recommend that this be taken into account in dealing with young people under these provisions. Members were advised there have been very few prosecutions of under 18s in England under the legislation; that 'more suitable alternatives' would be sought where possible; and that the matter may be addressed in guidance.

The issue of false allegations was discussed by the Committee and it was recognised that the provision in the Bill criminalising the use of a child to abuse, for example, a

parent, could be helpful in this regard. Stakeholders flagged the importance of the 'non-legislative' approach to this matter, relying on the expertise and professionalism of social workers and police officers.

**Recommendation 6: The Health Committee recommends that that a tailored approach be taken in respect of young people accused or convicted of domestic abuse, such that engagement with the justice system is underpinned by support to explore and address any experience of abuse with a view to helping such young people to develop healthy relationships. The Committee would also recommend that, where considered appropriate, young people have access to youth diversionary processes which are in place for other offences.**

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

The Committee's understanding is that to avail of the defence under the Clause 12, the accused does not have to prove that his/her course of behaviour was reasonable in the particular circumstances but to bring forward enough evidence "to raise an issue" as to whether it was reasonable in the particular circumstances, at which point the burden of proof reverts to the prosecution to prove to the contrary.

#### **Mental Health**

Members heard evidence that mental ill-health including depression, anxiety and addictions, can often be related to domestic abuse. In that context, Members expressed concern about the potential risk that an abuser could seek to exploit such conditions to advance a defence of reasonableness as cover for exerting coercive control over a victim. NSPCC, Women's Aid and MAP alluded to concerns around potential misuse of the defence.

The Committee questioned officials on safeguards and were advised that statutory guidance would address this but felt further consideration and monitoring may be required in relation to the implementation of Clause 12.

Members noted the important connection between the Domestic Abuse Strategy the forthcoming mental health strategy and suicide strategy 'Protect Life 2'.

**Recommendation 7: The Health Committee recommends that detailed consideration be given to the safeguards proposed in connection with reliance on Clause 12 and the protection of victims with mental ill-health.**

**Recommendation 8: The Committee further recommends that the implementation of Clause 12 be subject to review.**

## **Conclusion**

The Health Committee is glad to have the opportunity to contribute to discussion the Bill but would highlight that it has not, in the time available, had the opportunity to consider the Bill in depth. The Committee is supportive of the Bill, in principle, but wishes to see it resourced to maximise its effectiveness and prevent, tackle and reduce the scourge of domestic abuse. The Committee is conscious of the close interface between domestic abuse and a range of other issues from mental health to housing and homelessness and believes the impact of the Bill could be undercut by failing to address these adequately. Conversely, if the Bill is successful in increasing the confidence of victims to come forward, this could lead to additional demand on services which should be factored in.

The Health Committee welcomes the Minister for Justice's commitment, referenced above, to bring forward additional domestic abuse provisions in further legislation next year and the Health Committee makes its recommendations for consideration in that light.



**OPENING STATEMENT AND SUPPORTING EVIDENCE  
TO THE HEALTH COMMITTEE: THURSDAY 28<sup>TH</sup> MAY 2020**

My name is Sonya McMullan, Regional Services Manager, Women's Aid Federation Northern Ireland (WAFNI). Thank you for the opportunity to address you today in relation to the Family Proceedings and Domestic Abuse Bill which is currently at Justice Committee stage after its second reading. Women's Aid across NI have campaigned tirelessly for many years for changes in our legislation in relation to domestic violence and abuse legislation in NI and would like to take the opportunity to thank members of the Assembly for the swift action in returning to the proposed legislation from 3 years ago. We are though gravely concerned that much time has passed and it would be useful to look at other jurisdictions and how they have moved on and developed not only the legal process but also in relation to good practice. Women's Aid would like to highlight the omissions from the Bill also within the briefing and what we would like to see for all victims and survivors in NI to bring us into line with the rest of the UK.

The role of healthcare services in early detection and intervention is essential. Victims and survivors have often been subject to years of abuse and have experienced severe trauma, associated with long term health impacts. Almost all survivors interact with health services at some point which, for many women, are the only place they are safe to disclose. Health and social care professionals are in a crucial position to identify abuse, intervene early, and deliver support and referrals. Despite this, progress on the health response remains limited, and there is much work we could be doing in partnership to develop this. In terms of public health, domestic violence and abuse has a range of serious physical and mental health consequences for victims which can be long lasting. As well as acute and chronic physical impacts there are strong links with suicide and self-harm. Half of all people who report domestic abuse have children and the impact on the child is well documented.



**1 in 3 women globally are directly affected by domestic abuse (WHO, 2016)**

Domestic violence and abuse describes a continuum of behaviour ranging from verbal abuse, threats and intimidation, manipulation, physical and sexual assault, through to rape and homicide. It is a complex issue that all health care professionals should have some understanding about. They should be aware of who is affected, how individual victims may present in differing health care settings, how the subject could be approached, and most importantly what professionals can do to help and support victims of abuse. This should be part of all core training.

**Domestic violence is a public health concern as a woman who is the victim of domestic violence consults a doctor more frequently and receives more prescriptions than the general population. Violence against women, of which domestic violence is the major form, contributes largely to increasing health expenditure. (WHO, 2000)**

By contrast, women who experience intimate partner violence are less likely to seek preventative care, such as mammograms, cholesterol and blood pressure checks and cancer screening. This has clear implications for the overall health of women who experience violence, and also for health-care costs, since prevention is usually more effective than treatment. (WHO, 2012)

**The cost of domestic and sexual violence in NI is estimated at £931 million Women's Aid service provision at current levels across NI is less than 1% of this total cost. *Stopping Domestic and Sexual Violence and Abuse in Northern Ireland – a seven-year strategy, March 2016.***

Health care professionals need to become involved in the prevention and treatment of domestic violence and abuse as it is a public health dilemma. Having a sound knowledge base of the prevalence (family health risks related to domestic violence), indicators, and referrals resources is crucial. To intervene in these cases takes planned interventions by

health care professionals. By asking key questions routinely and sensitively, through the introduction of appropriate screening tools, the health care professional may begin to proactively address domestic violence and abuse. This can make a change over time through a multi-agency working approach to the key issues. With the introduction of the Family Proceedings and Domestic Abuse Bill in NI all government departments have an opportunity to move forward to have open discussions about domestic violence and abuse. Domestic violence and abuse does not sit with one department but requires a coordinated approach across from them all. In relation to health provisions for domestic violence and abuse, Women's Aid calls for the following key issues to be considered and addressed:

- **Recognition of impact of mental health and wellbeing**
- **Funding of children's services within Women's aid refuges and all frontline support**
- **Iris roll out across whole of Northern Ireland**
- **Review and re training of Routine Enquiry in all maternity services in NI**
- **Information sharing between departments, e.g. routine enquiry in A & E, minor injuries, GP surgeries to implement a red flag system pilot**
- **Routine screening of women for domestic violence and abuse at initial office visits and other general examinations**
- **Core/mandatory domestic violence and abuse training for all health care professionals and all staff working within HSC settings and all part of continued CPD**
- **Review of workplace domestic violence and abuse policies**
- **Social services review in relation to domestic violence and abuse workplace practice e.g. a review of files within family and childcare setting caseload, to review, evaluation and monitor the work of the social work team in dealing with cases.**
- **Review of Health Care Worker (Armagh Down Women's Aid) seconded post in Craigavon and Banbridge Area Hospital and post evaluation roll out across whole of NI**
- **Trauma informed care for all (adult and child) victims and survivors of domestic violence and abuse.**

Women's Aid has concerns around the omissions from the DA Bill. This is an opportunity to change the way domestic violence and abuse is dealt with and for cross departmental working to move forward. The DA Bill is also making its way through Westminster and is more robust and inclusive. We are concerned about the omissions as outlined below:

**Omissions from the DA Bill:**

- A statutory definition of Domestic Abuse
- Domestic Abuse Commissioner and office
- Reforms to the family court and review of child contact system
- Changes to housing and homelessness legislation for those escaping domestic violence and abuse
- Welfare policies that protect women and their children
- Reforms to ensure migrant survivors have equal access to protection and support
- Funding and resourcing of the Bill which is essential to respond to domestic violence and abuse in NI

**Further concerns:**

- Urgent need for Stalking legislation
- Review of current law in relation to fatal and non-fatal strangulation
- Safeguarding of our children and young people including the introduction of:  
Operation Encompass

## Measures not included in the Bill

### Statutory Definition of Domestic Violence and Abuse

A statutory definition of domestic abuse is going through the Westminster DA Bill.

Women's Aid would state that a statutory definition would and should explicitly name the gendered nature of domestic abuse to truly reflect the reality of the crime. Domestic abuse is a form of violence against women - a cause and consequence of women's inequality. Not only are women far more likely to be victims and men perpetrators, but women overwhelmingly experience coercive control within a context of fear.<sup>1</sup>

Without recognition of gender, the disproportionate scale and impact of domestic abuse on women, as already recognised by the government, will not be consistently understood. In NI our local government has a 'gender-neutral' approach to domestic violence and abuse, which obscures the reality of how abuse is perpetrated, who the victims and perpetrators are most likely to be, and what gender-specific services are required to meet the needs of both male and female victims. This really needs to be considered, as again we are the only part of the UK that does not recognise domestic violence and abuse as a gendered crime. We need to recognise violence against women and girls and have a strategy to finally acknowledge this. The proposed 'gender-neutral' definition undermines the government's obligations under international law, including the Convention of the Elimination of All Forms of Discrimination against Women and the Istanbul Convention. This statutory definition should apply to all genders and we of course recognise this, but the dynamics and impact of domestic violence and abuse on women and girls must be explicitly recognised by our local Assembly, either named in the Stopping Domestic & Sexual Abuse Strategy or in the definition (if it gets included in our Bill). The Istanbul Convention provides a clear precedent for this.<sup>2</sup>

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<sup>1</sup> Dobash & Dobash, 2004; Hester, 2013; Myhill, 2015; Myhill, 2017

<sup>2</sup> 4 Council of Europe Convention on preventing and combating violence against women and domestic violence requires states to recognise "the gendered dynamics, impact and consequences of these forms of violence and [operate] within a gender equality and human rights framework".

## Domestic Abuse Commissioner

Women's Aid will actively continue to campaign for a Domestic Abuse Commissioner. It is essential. It is an accountability mechanism for scrutinising legislation, policy, practice, commissioning, funding and provision. Our Justice Minister is not convinced of the need for a commissioner. Women's Aid would reflect on the statement below and would not agree that there are close and constructive working relationships which are enough to ensure scrutiny.

Other issues unique to NI include, the current Victims Commissioner is only for troubles related crimes, so does not, like in other parts of the UK represent victims and survivors such as Dame Vera Baird, who is such a true champion for the sector. We would advocate for a Commissioner for the work in the sector, there needs to be some form of monitoring and evaluation of current services. Following on from the introduction of the DA Commissioner in England, in the short time she has been there the work she has undertaken has been so positive. There is much learning from other parts of the UK who are ahead of us in relation to legislation but also other good practice including the introduction of the Commissioner. The feedback is so positive especially during Covid-19 that they had someone to go to, to oversee implementation of appropriate support services and of course to access emergency funding during the lockdown, which was promised through Westminster - £76 million in total. At time of writing there has been no offer of emergency funding to support specialized DV services in NI.

## Reforms of the Family Court System and Child Contact

The Westminster government announced a three-month review of the family courts in 2019 to see whether they were effectively protecting children and parents in cases of domestic abuse and other serious offences. The review was set to build on the draft Domestic Abuse Bill. It was chaired by a panel of experts, the government announced, and aims to ensure the courts work in "the explicit interest of the child".

The Report: Assessing risk of harm to children and parents in private law children cases Progress Update, Ministry of Justice, Family and Criminal Justice Policy Directorate 2019 shows:

*“The evidence gathered highlights systemic issues in relation to how risk is identified and managed which need to be addressed to ensure that victims and children involved in these proceedings are better protected from further harm. Much of this evidence relates to both the experience of the family justice process and to the outcomes it delivers. For example, many respondents who were victims of abuse felt that their experience of family court process (including but not limited to direct cross-examination by their abuser) was degrading and re-traumatising. In respect of outcomes, respondents often raised concerns about how the family court prioritised the child’s relationship with a non-resident parent over the welfare of the child and the risks to which this could expose the child and other parent.”<sup>3</sup>*

Women’s Aid would welcome a review of the family court system in Northern Ireland with a panel of experts to see how we can transform our family court system to reduce the continued hardship to children and young people together with their parent (often the mother) who is being dragged through the court system and experiencing further trauma.

Child contact is a major concern and Women’s Aid groups across NI repeatedly have issues with regard to this process. The safety of the child contact process is an urgent concern. Our courts need to recognise domestic violence and abuse and not treat it differently from other court settings. E.g. criminal court. Inadequate understanding of domestic abuse as a welfare concern continues to lead to unsafe contact arrangements, and women and children exposed to further harm through the child contact and family court systems. We urgently recommend that a review takes place and this could and should have been included in the new DA Bill to improve the safety of child contact through:

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<sup>3</sup> [https://consult.justice.gov.uk/digital-communications/assessing-harm-private-family-law-proceedings/supporting\\_documents/assessingchildrenharmprogressupdate.PDF](https://consult.justice.gov.uk/digital-communications/assessing-harm-private-family-law-proceedings/supporting_documents/assessingchildrenharmprogressupdate.PDF)

- 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 – our Courts need to link together between criminal and family proceedings.
- A change to the law to ensure that in cases of domestic violence and abuse that child contact arrangements are decided on an informed judgement of what's in the best interests of the child(ren) and not on the presumption of parental involvement.
- Providing for an independent statutory inquiry with relevant legal powers and necessary resources to deliver a review of the family courts in NI and how they are dealing with domestic violence and abuse cases, and work towards a consistent response across jurisdictions.

### **Powers to Deal with Domestic Violence:**

- Introduction of domestic abuse protection order
- Introduction of domestic abuse protection notice

Currently in NI there are no emergency powers to remove a perpetrator from the home after an incident of domestic violence. Women's Aid welcome the introduction of Protection Orders and Notices through the new legislation, but would like the Committee to consider the introduction of DAPO and DAPN's instead of the older Domestic Violence Protection Order and Notice. Within NI the proposed introduction of Domestic Violence Protection Orders is imminent according to the Department of Justice. We would ask the DOJ to reconsider this in light of the new orders coming into force in England and Wales, DAPO's and DAPA's which are due to be piloted in England and replace the Domestic Violence Protection Orders. We would be cautious of introducing a new Order which already has many problems and issues in England and Wales.

Women's Aid recommend the Government carry out a thorough review of the protective measures currently available before going ahead with its proposals for the Domestic Abuse Protection Order. Following that review, we would welcome if the Assembly would amend to introduce DAPO and DAPA to tackle the flaws seen in the Domestic Violence Protection Order process and to ensure that the courts are not obliged to take a restrictive approach to

imposing the new order. Whilst that review is being undertaken, we recommend additional resources are allocated to the police specifically for training and application fees for Domestic Violence Protection Orders.

## Stalking Legislation

Women's Aid will continue to campaign for stalking legislation in NI as this is also a huge gap in legal provisions available to those experiencing domestic violence and abuse. There is much evidence to associate a link between domestic violence and abuse, stalking and coercive control but there is also a common public misconception that stalking is necessarily unwanted attention and stalking from an obsessive stranger, possibly with specific mental health issues or delusions that have resulted in the stalking behaviour. The most common victim is assumed to be a celebrity or person in the public eye, such as an actor or celebrity. While this can and does happen, the common reality of stalking in NI and across other jurisdictions is quite different. Stalking is much more likely to occur within the context of domestic violence or a previously established relationship, or be perpetrated by someone who is known in some way to the victim.<sup>4</sup> This is certainly the experience of Women's Aid in Northern Ireland and the women we have supported. Research across multiple jurisdictions shows that the majority of victims of stalking are women, and the majority of perpetrators are men,<sup>5</sup> although this is not exclusively the case.

## Strangulation

Strangulation is a very symbolic act of control which leaves its victim in no doubt that there is a real and visceral threat to their life. If you put your hands on someone's throat and squeeze the message and terror for the victim is clear. We would support a specific criminal offence, as part of the current review of domestic violence legislation. This will give the

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<sup>4</sup> See Hall, 1998; Kohn et al 2000

<sup>5</sup> This pattern has been borne out by the British Crime survey by Walby and Allen (2004). Also Coleman et al state in their research that "Just under a quarter of women (23%) reported having experienced stalking since the age of 16." (Coleman et al, 2007). UK National Stalking Helpline: 80% women, 20% men callers.



power to police and the justice system to treat these offences with the seriousness it deserves. Some violence is more dangerous and frightening than others, not just in that it is more likely to cause death or serious injury, but in what it predicts. Strangulation is a very particular form of assault for three reasons:

1. It is likely to cause serious injury or death
2. It is perceived by the victim as a direct threat to their life
3. It is a highly predictive of future homicide

## Housing

Housing is a major concern for many women who are thinking of leaving or who have left abusive relationships. Within the United Kingdom, domestic abuse is known to be a contributing factor to homelessness. A study by St Mungo's Sheltered Lives found that, of their female clients, 50% had experienced domestic abuse, compared to 5% of their male clients<sup>6</sup>. Further connections between homelessness and domestic abuse can be identified when one considers the mental health implications of domestic abuse and the strong causal effects between homelessness and mental illness<sup>7</sup>. Deciding to leave an abusive relationship is difficult enough for victims, without being faced with the possibility of making yourself and your children homeless as a result. In some cases it can be the difference between a woman ending an abusive relationship or staying.

The Domestic Abuse and Family Proceedings Bill omits mention of housing. Women's Aid would argue that this ignores a fundamental issue faced by victims of domestic abuse. It is also an issue with gendered implications when we consider women's differential access to housing as a result of their disadvantaged position within the labour market<sup>8</sup>. Similar legislation in England and Wales very clearly mentions housing and the government's duty pertaining to victims of domestic abuse. We would be remiss not to insist on similar

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<sup>6</sup> Gentoo study

<sup>7</sup> <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.911.4996&rep=rep1&type=pdf>

<sup>8</sup> <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.911.4996&rep=rep1&type=pdf>

protections within our own legislation. We understand that this lies outside the remit of the Department of Health but insist that domestic abuse cuts through all sections of our society. Therefore, this legislation must be cross departmental for it to be robust and effective. There are two main ways through which legislation in other jurisdictions of the UK addresses socioeconomic issues confronting victims and survivors; ringfenced funding for refuge and secure tenancies for social housing. We accept that NI is a different jurisdiction with different laws. However, we will address both as they pertain to victims and survivors of domestic abuse here.

### **Operation Encompass**

Women's Aid have campaigned tirelessly for many years for the introduction of Operation Encompass in NI and it is hoped that this will be added through the Miscellaneous Provisions Bill and finally come into operation in NI to provide support to children and young people experiencing domestic violence and abuse.

## Comments on proposed Domestic Abuse and Family Proceedings Bill NI

### Part 1: Domestic Abuse: Offence and Aggravation

#### The domestic abuse offence

1. includes the creation of a new domestic abuse offence, child aggravators associated with that offence, a general aggravation of domestic abuse associated with any other offence, and a number of associated changes to criminal procedures, evidence and sentencing in domestic abuse-related cases. Both the child and general aggravator would enable sentencing to be increased up to the maximum that would otherwise not be available. Women's Aid welcome the domestic abuse offence, we have campaigned for many years for the introduction of an offence for coercive and controlling behaviour and for it to be recognised as a crime. Domestic violence and abuse is a unique crime, necessitating a unique response not only from the criminal justice system but also within the health and social care settings and other government departments.

Domestic violence and abuse is a widespread public health issue that needs a long-term strategy to prevent.<sup>9</sup> This is an opportunity for the Department of Health in line with changes and developments within legislation to show a commitment to prioritising domestic violence and abuse within all health setting strategies and development plans which would include:

1. **Training:** Mandatory training programme for the whole of the health and social care sector - rolled out for all staff in relation to the new offence, to raise awareness of the coercive and controlling behaviour. This is essential for all staff to have a greater understanding of the impacts of domestic violence and abuse, also to increase and support early intervention models.

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<sup>9</sup> Women's Aid England, Nowhere to Turn: Findings from the Second Year of the No Woman Turned Away Project, 2018

- 2. Working closely with partner agencies:** It is important that developments such as Iris<sup>10</sup> which is currently being piloted in two GP Federations in South Down and East Belfast is allowed to continue and roll out across the whole of NI. IRIS is a specialist domestic violence and abuse (DVA) training, support and referral programme for General Practices which includes ongoing training, education and consultancy for the clinical team and administrative staff, care pathways for primary health care practitioners and an enhanced referral pathway to specialist domestic violence services for patients with experience of domestic violence and abuse.
- 3. Link to mental health:** There are higher rates of domestic violence and abuse amongst people who have mental health problems compared to those who don't. Research supports the existence of a bidirectional relationship; domestic abuse can lead to mental health difficulties, and having mental ill health can render people more vulnerable to domestic abuse.<sup>11</sup> Abuse is often the main factor in the development of depression, anxiety together with sleep disturbance, self-harm, suicidal ideation and attempted suicide together with eating disorders and other addictions. In the UK it is estimated that 1 in 8 of all suicides and suicide attempts by women are due to domestic violence and abuse.<sup>12</sup> In October 2016, the Department of Health Northern Ireland published the ***Health and Wellbeing 2026: Delivering Together; a 10-year strategy to transform health and social care***. This highlighted the need for parity between mental and physical health as well as plans to expand services to deal with past traumas. In 2017 the Northern Ireland Assembly published the ***Mental Health in Northern Ireland*** paper, which found that stigma and access to services were the main reasons people in NI did not seek help. So there has been much work done in NI in relation to mental health and well-being. This paper acknowledged that traumatic past events can be a cause of mental illnesses, there was no specific mention of domestic violence and abuse. In September 2016, Department of Health published a draft strategy on suicide prevention called ***Protect Life 2***. The draft strategy acknowledges that certain risk factors leave people

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<sup>10</sup> IRIS (Identification and Referral to Improve Safety).

<sup>11</sup> Oram, S., Khalifeh, H., & Howard, L.M. (2016). Violence against women and mental health. *The Lancet Psychiatry*, 4 (2): 159-170. [https://doi.org/10.1016/S2215-0366\(16\)30261-9](https://doi.org/10.1016/S2215-0366(16)30261-9)

<sup>12</sup> (SafeLives 2016) A Cry for Health: Why we must invest in domestic abuse services in hospitals

more vulnerable to suicide, including those who have experienced abuse and conflict such as domestic violence and sexual violence, so this is very rarely discussed in relation to any campaigns or awareness raising by the Department of Health in relation to suicide. Women's Aid do see this as an opportunity to move forward through all strategic plans and developments within health and social care in NI to highlight domestic violence and abuse.

**4. Changing how we talk about domestic violence/public awareness campaign:**

Creating a domestic abuse offence would remove the ambiguity of how we talk about domestic violence and abuse in public and in the media. Currently when a woman is killed or assaulted, newspaper reports rarely use the phrase domestic violence or domestic abuse. With the introduction of this offence, this will encourage public discourse to recognise this violence for what it is and give a very hidden crime some more public visibility and recognition. It is important for the Department of Health through public health campaigns to recognise and change public attitudes. Other public health campaigns have implemented a cultural change which is important, and it is achievable. When not **wearing a seatbelt** was made illegal, our culture changed very quickly to regard wearing seatbelts in cars as standard and necessary behaviour. It also changed the public's level of tolerance to those who broke the law. Similar cultural shifts have taken place with regards to **drink driving** and **smoking in workplaces**.

- 5. Children and Young People:** Women's Aid has long recognised that children and young people are often referred to as the hidden victims of domestic violence. Often the smallest victims of domestic violence are the biggest. Domestic violence is recognised as an adverse childhood experience (ACE). It impacts upon all areas of children and young people's lives, including, health, education, the development of relationships, recreation and social activities with wide ranging effects that will differ for every child/young person. Safe Lives research<sup>13</sup> drawing upon 877 cases of children exposed to domestic violence revealed that ¼ children living with high risk

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<sup>13</sup> CAADA (February 2014) In Plain Sight: Effective help for children exposed to domestic abuse, CAADA 2nd National Policy Report

DV were under 3 years old. It highlighted that children suffer serious multiple physical and mental health consequences:

- 52% had behavioural problems
- 52% had problems with social development and relationships
- 39% had difficulties in school
- 60% felt responsible for the negative events

It is really important that all workers engaging with children and young people within the health and social care setting are aware of the impact and trauma of coercive control on families. Research suggests that coercive control can have equally devastating impacts on children and young people as physically violent domestic abuse; in one study, children in families where physical violence was not a regular part of perpetrators' abuse of mothers experienced the same negative impacts (e.g. emotional and behavioural issues, mental health problems) as those who had lived with frequent and sometimes severe physical violence (Katz, 2016).<sup>14</sup>

The study found that the harmful impacts of coercive control on children and young people can include:

- Control of time, movement and activities within the home- Children and young people can be affected by the control of their mother's activities in the home, with children and mothers being restricted in spending time together and being able to enjoy each other's company. This can undermine the mother-child relationship, depriving children of feeling stable, protected and nurtured.
- Restricted space to act: Children's freedom to say and do things may be restricted by the perpetrator's controlling behaviour; for example, not being able to play, or being made to keep quiet.
- Isolation from sources of support: Control of the mother's movements outside the home also negatively impacts on children, who may not be allowed to see

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<sup>14</sup> Katz, E. (2016) 'Beyond the Physical Incident Model: How Children Living with Domestic Violence are Harmed By and Resist Regimes of Coercive Control', *Child Abuse Review* 25:1, 46–59.

friends and other family members (e.g.; grandparents) or take part in extra-curricular activities. This deprives children of the resilience-building influence of positive relationships outside the family home. Coercive control can continue after separation from an abusive partner, with child contact and accompanying legal proceedings sometimes being used as a way for the abusive expartner to be involved in a woman's life and to continue exerting control over her and her children.

Women's Aid NI calls for full recognition of children and young people as equal victims of domestic violence. We want to see a collective strategic response to meet their needs at individual, community, organisation and government levels.<sup>15</sup>

Women's Aid welcomes the recognition to include coercive and controlling behaviours to recognise this behaviour as impactful and can include both physical and emotional, psychological and controlling behaviours. This is important to each individual the impact of the behaviour and the short and long-term effects it has on the victim of the abuse.

Women's Aid welcomes the wide range of people who the domestic abuse offence can be applicable to, but wish to extend our continued that domestic violence and abuse is a gendered crime and the majority of these crimes are perpetrated by a male and most victims are female. This needs to be considered within the Bill and we would welcome further discussion on the introduction of a Violence Against Women & Girls Strategy in NI.

**Clause 2** sets out what amounts to abusive behaviour. The description is very comprehensive and it includes violent or threatening behaviour, including sexual violence, as well as abusive behaviour more generally; that is behaviour that is directed at the victim, their child or another person that may have certain effects on the victim. It does not have to be abusive behaviour that is directly towards that individual. Women's Aid feel it is important to name sexual violence within an intimate partner relationship and recognise how difficult it is for an individual to come forward and discuss this form of abuse. We also welcome the great detail in relation to the relevant effects of the abusive behaviour.

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<sup>15</sup> See Hear Act : A Strategy for Children and Young People, WAFNI (2019-2029)

**Clause 3** - outlines that the effects of the abusive behaviour, such as dependency, subordination, isolation and control, do not have to have caused harm in order for an offence to occur and it is important to recognise the impact that behaviour does have on a victim and survivor.

**Clause 4** – brings up the important issue of abuse through a third party. Again, this has come up on so many occasions whereby a woman's abuse continues through a third party, e.g. when a partner goes to prison, other family members or friends continue to intimate and abuse.

**Clause 7 – (2) Notice is service on the person by –**

Women's Aid would take issue at (c) sending it by post to the person at the person's proper address. This has been a major issue for many years and is not secure and safe for the victim and survivor to know if the notice has been served, how is this proved as service. This is also relevant in 20 (C)

**Clause 8 - Aggravating Factors**

Women's Aid welcomes the inclusion of the aggravating factors for both adults and children.

Abusive behaviour where a child is involved is become an aggravated offence and sentencing to reflect impact on children. We would like to see this extend to a full review of the family courts including a review of the duty to protect and how written agreements are being used. Other vulnerabilities that should be considered as aggravating factors are disabled women, mental illness, women with no recourse, BME women to reflect the inequality which underpins domestic violence and abuse. We note below the revised wording in relation to vulnerable victims used by the Sentencing Council.



*“The Sentencing Council has decided to revise the wording to ‘victim is particularly vulnerable (all victims of domestic abuse are potentially vulnerable due to the nature of the abuse, but some victims of domestic abuse may be more vulnerable than others, and not all vulnerabilities are immediately apparent)’. This wording is designed to allow courts to take a broad view of whether a victim is vulnerable or not, and not just by reference to a set of specific factors, such as age, disability etc., which cannot hope to include every instance of possible vulnerability. Victims of domestic abuse are individuals, and need to be treated as such, rather than to be cross referenced against a list of factors which may not apply to them, and may not address their particular vulnerability.”<sup>16</sup>*

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

Women’s Aid understands that the aggravation under clause 9 would also apply where a child sees, hears or is present during a single incident of domestic abuse that forms part of a course of abusive behaviour. This is encouraging given all the research that we are aware of on the impact of domestic violence and abuse on children and young people, that they are being taken into consideration within the Bill and no longer the silent witnesses, as they too experience it.

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

Women’s Aid are concerned about Clause 12 the “defence on grounds of reasonableness” We understand that there is a need for a safeguard in there to e.g. protect family members of dementia sufferers who may need to be confined/controlled etc in their own interest. Though this should not come at the expense of the Bill having no teeth and a Defendant pleading reasonableness if they feel that things aren’t going their way or to portray a victim as someone who is mentally unstable (especially if the victim has mental health issues caused by the abuse). This is of great concern to Women’s Aid. It is noted below comments by Rachel Woods, MLA at Plenary of concerns in relation to the phrasing of 12(2)(a). We believe that the wording in this clause can be adapted and we also call supporting this by a

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<sup>16</sup> <https://www.sentencingcouncil.org.uk/wp-content/uploads/Domestic-Abuse-response-paper-web.pdf>

safeguard in the legislation to protect women from an abusive partner making untrue allegations for his own gain.

*“Clause 12 deals with the intention and reasonableness defence. My main concern is around those who are in care or in caring relationships, and those who have disabilities with their physical health and mental health. The concern has also been raised by Eddie Lynch, the Commissioner for Older People, who has noted the phrasing in clause 12(2)(a) that the evidence: “is enough to raise an issue as to whether the course of behaviour is as described in subsection (1)”. The phrase “enough to raise an issue” seems sufficiently loose as to conceivably allow for victim-blaming as a means of defence. It cannot be the case that the dominant person in a relationship needs only raise a query over the victim’s behaviour in order to rationalise abuse, as such formulation may allow. I support calls for the inclusion of a safeguard in the legislation to protect family members. However, as I raised in Committee, could person A, who is a carer and related to person B, be found to be acting abusively but be excused on the grounds of reasonableness? I do not think that it is specific enough to protect elderly or vulnerable people. We obviously need to make sure that it is, and I look forward to engaging with the Commissioner for Older People on that.” P 44 Rachel Woods, Green Party, Plenary.*

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

Women’s Aid welcomes the range of sentences available and ability to increase the sentence due to aggravation including where a child (defined as a person under the age of 18) is a victim of domestic abuse, either as a partner or family member, or sees, hears or is present while abusive behaviour is being carried out: *the maximum penalty in the Magistrates’ Courts will be 12 months’ imprisonment, and 14 years in the Crown Court and it may also include a fine or both at each Court tier.*

## **Chapter 2: Aggravation as to Domestic Abuse**

### **Sentencing Aggravation**

In addition, if criminal damage takes place as part of domestic abuse and involves a child, the sentence can also be increased, this is so important as it is a factor that many women

have had to suffer and common in relation to domestic violence and abuse cases. We would also like the Committee to consider repeated offences to be included, to take into account those serial perpetrators of domestic violence and abuse offences on not just one woman but several different women.

## **Chapter 3: Amendments and Guidance**

### **Special Measures Direction**

Special protection measures such as separate waiting rooms, separate entrance and exit times for the parties, screens and video-links support victims to give quality evidence and can reduce some of the trauma of the process. We welcome the new legislation's inclusion and a commitment to make legislative changes to provide automatic eligibility for special measures in domestic violence and abuse cases in the criminal courts. Separate waiting rooms or a safe place within the court designed to ensure victim safety and accessibility and to continue to use video link where possible. But this problem is most acutely within the family court, where access to special measures is so poor that survivors are being attacked, abused, harassed and left too frightened to effectively advocate for the ongoing safety of their child. Failure to ensure parity in the court systems will leave survivors at continued risk of harm and an inconsistent approach to safety between the court systems. There needs to be a guarantee of special measures for victims and survivors of domestic violence and abuse in the family courts. At present we have many examples where special measures have been assured but on the day of court, they are unavailable. This is not good enough and there needs to be reassurances for victims and survivors.

### **Prohibition of cross-examination in person (including Family Proceedings)**

Within our current legal system in NI, it has witnessed victims and survivors facing direct cross-examination by an unrepresented former partner. This abhorrent practice prolongs the impact and trauma caused by domestic violence and abuse, diminishes the quality of evidence that victims and survivors can provide and bars them from advocating for their child's safety. Women's Aid is delighted that this Bill includes a ban on cross-examination. However, the prohibition will only apply where there is a criminal conviction or court order

in place and, in other cases, will rely on judicial discretion. With the current low reporting to police of domestic violence and abuse this is concerning and something that needs to be considered.

Women's Aid would suggest that the prohibition is extended to direct cross-examination in any family proceedings in which allegations of domestic violence and abuse are being determined, or where either party has admitted or found to have perpetrated domestic violence and abuse to assure safety in relation to cross examination.

**Clause 26** which relates to family proceedings is any person convicted, cautioned or charged with a specified offence may not cross-examine a victim/alleged victim in person.

Paragraph 3 states that this will not apply to spent convictions. The rehabilitation period (the amount of time that must pass between conviction/disposal before an offence becomes spent) is set out in the Rehabilitation of Offenders (NI) Order 1978. The rehabilitation period will depend on the method of disposal i.e. caution, fine, period of imprisonment and the age of the defendant at the time. If a defendant gets probation (which is often the case) then the rehabilitation period can be as little as 1 year. It goes up to 5 years for a fine or community service order. This is very concerning for Women's Aid.

Women's Aid would have concerns in relation to **Prohibition of cross-examination in person: evidence of domestic abuse** : It states at **11D** that it prohibits cross examination between persons involved in abusive behaviour. What this means exactly is unclear in the Bill as it states that specified evidence must be adduced to prove the behaviour and the evidence specified will be set out in regulations from the DoJ as set out in 11D(3). So this is unclear as to what the regulations are and we would prohibit cross-examination in cases where there is a domestic history whether reported to authorities or not. Women's Aid would like to know what the regulations would be and have they been drafted?

**Clause 25** sets out that the Department will issue guidance related to the domestic abuse offence. Women's Aid would like to seek clarity in relation to this guidance and the assurances that ourselves and voluntary and statutory partners will be involved in this process.

## Appendix 1

Women's Aid is the lead voluntary organisation in Northern Ireland addressing domestic and sexual violence and providing services for women and children. Women's Aid exists to challenge attitudes and beliefs which perpetuate domestic violence. We work to promote healthy, non-abusive relationships.

### Our vision is the elimination of domestic and sexual violence

Women's Aid supports all women and children affected by domestic violence. We work to help women and children be safe, to break free from the cycle of violence, and to rebuild their lives. Women's Aid has nine local groups and one regional umbrella body covering the whole of Northern Ireland, and our wraparound services are available across Northern Ireland. Our core work includes:

- Refuge accommodation for women and their children suffering domestic violence.
- Support services to enable women affected by domestic and/or sexual violence to rebuild their lives and the lives of their children.
- Support services for children and young people who have experienced domestic violence.
- Preventative education programmes in schools and other settings.
- Educating and raising awareness among the public, media, police, courts, social services and other agencies of the impact of domestic and sexual violence.
- Advising and supporting other agencies in responding to domestic & sexual violence.
- Working in partnership with other agencies to ensure a joined-up response to domestic and sexual violence.

Throughout this response, the term "Women's Aid" refers to the overall Women's Aid movement in Northern Ireland, including our local groups and Women's Aid Federation.

### Domestic & Sexual Violence in 2018-19: a year in numbers

- **654** women and **421** children stayed in a Women's Aid refuge.
- **49** pregnant women were supported in refuge and **159** pregnant women accessed outreach services.
- **10** babies were born to women in refuge.
- **6,308** women and **5,966** children accessed Women's Aid outreach services, enabling them to get support while staying in their own homes.
- **704** women took part in programmes run by Women's Aid, including our *Journey to Freedom* and *You and Me, Mum* programmes.
- We trained **161** teachers across **102** primary schools to deliver the *Helping Hands* preventative education programme.

## Domestic Violence in Northern Ireland: Trends

- Domestic violence is a violation of Article 5 of the UN Universal Declaration of Human Rights – that “*no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment*”.
- The *Stopping Domestic & Sexual Violence and Abuse Strategy* estimates the cost of domestic and sexual violence in Northern Ireland to be **£931 million**.
- UNICEF research released in 2006, showing per capita incidence, indicates that there are up to **32,000 children** and young people living with domestic violence in Northern Ireland.
- **69%** of all domestic abuse crimes were female and 31% were male. Of all offenders dealt with by police in 2018/19 in connection with domestic abuse crimes that resulted in an outcome, 86% were male and 12% were female.<sup>17</sup>

## Crime Statistics 2018-19

- Domestic Violence is a crime. Domestic abuse crimes (**31,682**) accounted for **16% of all crime** reported to the PSNI.
- There were two and a half times as many domestic abuse crimes as drug offences (**16,182** as opposed to **5,577**), and twice as many domestic abuse crimes as shoplifting offences (**6,773**).
- Police responded to a domestic incident **every 17 minutes** of every day of the year.
- Between 2018 – 2019, there were **4 murders** with a domestic abuse motivation in Northern Ireland and all victims were female. In 2017 Northern Ireland there was the joint highest level of femicide in Europe per 100,000 people.

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<sup>17</sup>Findings from the PSNI Trends in Domestic Abuse Incidents and Crimes Recorded by the Police in Northern Ireland 31 March 2019 N.B. “Adult” defined as aged 18 and over

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## **NSPCC in Northern Ireland briefing for Health Committee on the Domestic Abuse and Family Proceedings Bill**

The NSPCC in Northern Ireland welcomes the opportunity to give evidence on the Domestic Abuse and Family Proceedings Bill. We welcome the introduction of this Bill, and moves to make domestic abuse a specific criminal offence. The Bill is a once in a generation opportunity to deliver a step change to our response to domestic abuse.

While we welcome the Bill, we do feel amendments are necessary if it is truly to take account of the needs of children affected by domestic abuse. The COVID-19 crisis has underlined how important this is, with levels of domestic expected to rise and vital support services coming under further pressure.

Below are set out the key considerations of the Bill as it affects health and social care. In this respect, we have reserved our comments to Part 1 of the Bill.

### **The impact of domestic abuse on children**

Domestic abuse has a devastating impact on children and young people. Living in a home where domestic abuse takes place can have a profound impact on a child's physical, mental and emotional wellbeing, as well as their behaviour. The effects of experiencing this form of harm can last well into adulthood.

Children's experiences of domestic abuse are often connected to those of their parent or carer but are also distinct. Examples of this include being expected to defend the abused parents against physical harm or be drawn into violence or coercively controlling behaviours to further punish the adult victim.<sup>1</sup> Children's experiences of disclosure can also be traumatising, as disclosure can result in instability because it may result in leaving the family home and moving into accommodation, or feelings of guilt or shame due to disclosing the abuse and punishing the parent who is causing harm.<sup>2</sup>

The COVID-19 pandemic and related public health measures have shone a spotlight on the scale of domestic abuse. Since lockdown measures were introduced in late March, we have seen a noticeable rise in domestic abuse contacts to our Childline and Helpline services.

Children affected by domestic abuse are finding it harder to cope than usual, as sources of support that might previously have been available to them - friends, teachers, school counsellors, health visitors, sports clubs - have been reduced or

<sup>1</sup> Dr Jane Callaghan (Beyond Witnessing: Children's Experiences of Coercive Control in Domestic Violence and Abuse, 2016, *Journal of Interpersonal Violence*) and Dr Emma Katz (Coercive Control, Domestic Violence and a Five Factor Framework: Five Factors that Influence Closeness, Distance and Strain in the Mother-Child Relationship, 2019, *Violence Against Women*),

<sup>2</sup> Dr Emma Katz, Coercive Control, Domestic Violence and a Five Factor Framework: Five Factors that Influence Closeness, Distance and Strain in the Mother-Child Relationship, 2019, *Violence Against Women*),

cut off entirely. Now, more than ever, children are turning to Childline for emotional support and advice on how to keep themselves safe. Children and adults experiencing domestic abuse also feel worried to leave their homes for risk of getting sick.

There are also concerns that those who commit domestic abuse are using lockdown and social distancing measures to assert more coercively controlling behavior, such as taking away not allowing their partner or children to leave the family home and limiting contact with other loved ones, friends or safeguarding professionals.

## **Domestic Abuse and Family Proceedings Bill**

There are two key aspects of the Bill where we think improvements should be made to provide clarity and better recognise how children and young people experience domestic abuse.

### **1. Children should not fall under the definition of the offence, but their experiences should be recognised**

At present the offence can apply to individuals of any age. This contrasts with the Domestic Abuse Bill currently before Westminster which explicitly states that the offence being created applies where both A and B are aged sixteen or over. We would endorse a similar threshold for the NI Bill.

Including children under the age of sixteen in the definition of domestic abuse risks – in terms of their own relationships - risks confusing the child protection response, with situations of domestic abuse being dealt with through a more punitive, criminal justice lens, rather than with a more protective, health and social care -based. Both in cases where a child is experiencing abuse, and where a child is engaged in harmful behaviours, should be child-centred, seek to prevent further harm and promote recovery. We are not convinced that, in the majority of cases, a criminal justice response would be the most appropriate.

However, while we believe the proposed offence should not apply to those under age 16, we do believe that the offence should capture the experiences of children living within the context of an abusive relationship between adults. This recognition is achieved to some extent in the aggravators contained in ss8-9 of the Bill, but we believe provisions should go further.

The impact on children of seeing, hearing or being otherwise exposed to domestic abuse perpetrated by one adult against another is such that they must be considered to have experienced the domestic abuse as well, and not merely to have passively witnessed it. We would welcome amendment of the statutory definition which recognised that children – who are neither A or B – can directly experience the behaviour of A.



## **2. Introduce a statutory duty on Health and Social Care Trusts to deliver support services**

With the right support, children affected by domestic abuse can recover and go on to lead happy and healthy childhoods. In creating the specific offence, we also need to ensure there is sufficient provision for those affected by domestic abuse. This is particularly pressing in the context of the COVID-19 pandemic, when there will almost certainly be increased need and demand.

A child's experience of domestic abuse is different to that of an adult and so specialist child-centred support is needed to help children recover and move forward with their lives.

Evidence has identified that children have a better chance of recovering from domestic abuse when they have a strong relationship with the parent victim of abuse, usually the mother.<sup>3</sup> The Domestic Abuse Recovering Together (DART) service run by the NSPCC, and delivered from our Belfast service centre, helps children and mothers talk to each other about domestic abuse, learn to communicate and rebuild their relationship. Over a number of sessions, mothers and children aged 7-14 meet for a weekly two-hour group session, and then take part in activities in separate groups. Mothers learn about how domestic abuse happens and the impact it has on children. Children take part in activities together that help them build their own understanding of domestic abuse, how they're feeling and how to keep themselves safe. They then join together again to conclude the session. Evaluations of the programme found that:

- mothers' self-esteem and confidence in parenting increased, and they reported more affection towards their children
- children had fewer emotional and behavioural difficulties; reductions were greater among children who received DART than those involved in an alternative service

The Domestic Abuse Bill at Westminster includes a duty on local authorities to provide support to adult and child survivors in accommodation-based services, like refuges. The NI Bill should include a similar provision, although ensure it is not limited to accommodation services only. We advocate the addition of a duty on Health and Social Care Trusts to deliver to make available specialist support services for all adult and child victims, as well as perpetrators and children exhibiting abusive behaviours, regardless of where they live.

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<sup>3</sup> Katz, 2019.