



## **Written evidence to Justice Committee – Domestic Abuse & Family Proceedings Bill**

**June 2020**

Victim Support NI welcomes the introduction of the Domestic Abuse & Family Proceedings Bill to the Assembly, and the opportunity to provide comment and scrutiny of the Bill to the Justice Committee.

In the course of our work, we support victims of domestic violence and abuse, some of whom may engage with both criminal and civil courts. In particular, our Independent Sexual Violence Advocates (ISVAs) support victims of sexual violence and abuse where that abuse has been committed within an intimate relationship. Our Witness Service offers support in every criminal court across Northern Ireland to all victims of crime, including victims of domestic abuse-related crime. By supporting victims through the justice process, we enable them to understand and engage with the criminal justice system and play their part in delivering justice. Through our Community Service, we offer support in the immediate aftermath to anyone who has been victim of a domestic abuse-related crime, and work closely with colleagues in Women's Aid, Men's Advisory Project and Nexus NI to ensure that victims are given the right support when they need it.

Victim Support NI has campaigned for several years alongside other expert support organisations for such a law to be put in place to protect victims of domestic violence and abuse. We are encouraged that coercive, controlling behaviour will finally be a criminal offence in Northern Ireland following the passage of this Bill, and that Justice Minister Long has made it a priority for this term. As things stand, there is a significant gap in our domestic abuse laws, meaning that domestic abuse is not adequately treated like the pattern of abusive, coercive controlling behaviour that it is. In our view, this Bill will make significant strides in closing that gap.

***We preface our written evidence with a plea for this legislation to be progressed as swiftly as possible. Victims of domestic abuse have waited for many years for a law to be put in place which reflects the reality of the abuse they have suffered. Until now, the law has mainly dealt with domestic abuse as individual incidents with no relation to each other, and no understanding that these incidents in combination have a much greater impact on victims than the individual sum of their parts. It is long overdue for this legislation to be put in place, and Victim Support NI urges that there is no further delay to passing the law.***

Our submission is divided into two sections: Section 1 provides a clause by clause analysis of the Bill and any issues arising from each clause, and Section 2 addresses the specific questions posed by the Committee in their call for written evidence.

## **Section 1: Clause by clause analysis**

Clause 1:

- We by and large agree with an objective, ‘reasonable person’ test being applied in this clause and throughout the law. In our view, a subjective test of intention would be problematic, as it may be an impossible standard to prove in court. Recklessness and reasonableness should be sufficient standard tests to meet for this law to apply.
- It will be necessary for awareness raising and training on the nature and different manifestations of coercive, controlling behaviours to be rolled out in order for the ‘reasonable person’ standard to work in practice. Behaviours that may amount to domestic abuse in a specific context can seem innocuous in and of themselves, and may therefore be difficult for a juror to understand sufficiently when considering a verdict. For instance, a bunch of flowers left at a person’s doorstep may on the face of it seem like a benign act or even a ‘nice gesture’. However, in the context of an abusive relationship, they may carry a more sinister message, such as that an abuser or stalker knows where their victim lives. For a reasonable person test to be properly applied in a trial setting, both legal professionals and jurors would need to possess an understanding of what coercive controlling behaviour looks like and what behaviours are capable of meeting this threshold.

***Recommendation: Provision for the funding and roll-out of training and awareness-raising initiatives on the law should be included alongside this Bill.***

Clause 2:

- It is positive that behaviour directed at someone other than the victim of abuse can constitute abusive behaviour for the purposes of this law [s2(1)(c)]. It is a common tactic of abusers to use another person in order to inflict abuse on a partner / ex-partner, and it is important that the law recognises the reality of how psychological harm is inflicted upon victims.
- We agree that the law should cover both behaviour that has the purpose of having the effect, and behaviour that would reasonably be considered to have the effect. We do not believe that anyone should be able to avoid the consequences of committing acts of abuse simply by asserting that they didn’t think their behaviour would have the effect they did. The reasonable person test is logical and makes for a better functioning law.

- We agree that in this clause, and throughout the law, a child should be defined as someone under 18, in line with UNCRC standards.

#### Clause 3:

- We are supportive of the framing of clause 3, that the offence can be deemed to have been committed regardless of whether the behaviour has been proven to have had a particular effect. We are of the view that proof of the act of carrying out the abusive behaviour should be sufficient without also having to prove beyond reasonable doubt that the abuse had a particular impact. As this is a course of conduct offence and will thus require a pattern of behaviour to be established via multiple behaviours that meet the criteria under sections 1 and 2, there is already a sufficiently high bar to traverse for criminality to be established. Furthermore, grounding the law in an objective 'reasonable person' standard, and focusing on the conduct as opposed to the impact, will better standardise what will and will not be deemed to be abusive behaviour. Different individuals will react to behaviours in different ways, and it could be considered unjust if two similar cases with similar behaviours had two different outcomes because the measure of the law was the impact on the victim as opposed to the conduct itself.

#### Clause 4:

- We support the definitions of behaviour outlined in this clause. In particular, it is vital that intentional omissions or failure to do something, as well as positive actions, are included. We are also encouraged that non-verbal communication is included in the Bill, given that much abuse takes place online or via digital correspondence.
- We note that this is a course of conduct offence, requiring at least two occasions of such behaviour being carried out. While we agree that this accurately reflects the pattern of behaviour that we are trying to capture and criminalise in this offence, we reiterate our point that training and resourcing will be necessary for such a course of conduct offence to be effectively policed and prosecuted. Domestic abuse is widespread in Northern Ireland – the last quarterly statistical bulletin by the PSNI counted 31,817 domestic incidents attended by police, the highest figure recorded since collation of the data series began in 2004/05. Of those, 18,640 were crimes. It is reasonable to assume that, upon the introduction of this law, many more of those 31,817 incidents will potentially also be criminal offences, or at least the behaviours might become part of a course of conduct should the offender in question commit another act of abuse in future. Furthermore, it is likely that more people will report abuse to police that they would not previously have considered reporting, as previously such behaviours would not have been regarded as criminal. It is therefore reasonable to expect that more police resourcing will be required to ensure that this law is properly implemented and that evidence to build a course of conduct case is able to be effectively gathered.

**Recommendation: Additional resources should be provided to the PSNI to enable them to police this law effectively.**

Clause 5:

- We feel there should be more clarity on whether ‘affinity’ will cover relationships such as adoptive parent/child, foster parent/child, kinship carer/child relationships in cases where those carers are aunts/ uncles as opposed to grandparents, or other relatives who aren’t listed but who nonetheless are in a position of influence over a person. This would be a particular concern in cases where extended family members live under the same roof as if immediate family. It would also be relevant in cases where a child victim turned 18 and child protection / abuse legislation no longer applied.

**Recommendation: The Committee should consider whether this Bill adequately covers all aspects of domestic abuse, particularly abuse from extended family members living under the same roof as if immediate family.**

Clause 8:

- We are largely supportive of this clause. Youth is often a vulnerability used by perpetrators to control and manipulate their victims, and as such it is fitting that an aggravated sentence would apply in such cases. For instance, a case of a 26-year-old man whose *modus operandi* is to seek 16/17-year-old girlfriends, and deliberately using their naivete and trust to control them, would rightly warrant an aggravated sentence.
- However, the Committee may wish to consider how the law might be applied in cases where the perpetrator is also a child, and determine how best to safeguard the law against unintended consequences. For example, the law in its current form may result in harsher sentencing in a case where both perpetrator and victim are 17 years old and in a relationship. Or harsher sentencing in a case where a victim is 17 and the perpetrator is 18, and there is no evidence of that abuser taking advantage of a victim’s young age in a predatory and opportunistic way. We urge the Committee to consider how this issue might be resolved, either within the legislation and explanatory memorandum or via sentencing guidance, so that young offenders are not *per se* punished more harshly than older offenders due to the increased likelihood of them being in a relationship with someone under 18.

**Recommendation: The Committee should consider whether to amend Clause 8 to ensure that young perpetrators are not disproportionately punished by this law.**

Clause 9:

- We support the provisions in clause 9 for an aggravation to exist where a child becomes involved but is not the primary intended recipient of the abuse. It is well-evidenced that children are often used as pawns or leverage to further control victims, are often in the same or next room when abuse takes place and are not passive observers of abuse but are themselves affected by it.

Clause 10:

- We are pleased that Clause 10 will meet the standards of the Istanbul Convention, by giving the offence extra-territorial jurisdiction. This is the 'gold standard' for tackling violence against women, of which domestic abuse is one variety, and full implementation of the Convention will have a positive impact on all victims of domestic and sexual abuse and violence, regardless of gender.

Clause 11:

- We understand and support the reasoning for the exclusion from this legislation of children being abused by someone with parental responsibility for them, as this would fall under child abuse. However, we would urge the Committee to consider whether the existing suite of children's legislation does in fact have a direct equivalent to the provisions within this law, and whether amendments to that children's legislation are necessary via another miscellaneous Bill to ensure parity of protection for child victims of coercive controlling behaviour and abuse.

***Recommendation: The Committee should examine child legislation to ensure that there is legal parity for child victims of domestic abuse whose abuser is someone with parental responsibility for them. If such parity does not exist, we would urge the Committee to address this in any Miscellaneous Bill provisions.***

Clause 12: reasonableness defence

- Victim Support NI appreciates the motivation behind the inclusion of a reasonableness defence within the legislation. However, in its current form, we have slight concern that this could result in some of the most vulnerable victims of abuse being left unprotected.
- The rationale behind a reasonableness defence is sound when one considers the actions that some people must take to safeguard a relative with dementia, for example. It is important for the law to be able to account for this reality in some people's lives, and for those taking reasonable actions to safeguard a loved one to avoid being criminalised for it. That said, the reasonableness defence in its current form may be a blunt instrument, which could lead to difficulties for any victim with a disability or vulnerability to seek protection from the law.

- Research shows that people with disabilities are more than twice as likely to be victims of domestic abuse, and are much less likely to report it due to multiple barriers.<sup>1</sup> In many cases, the abuser of someone with a disability is also their carer. Unfortunately, this is a fact that the general public often finds difficult to stomach or understand, often characterising carers as inherently ‘good’, even ‘saint-like’, people. Similar prejudices exist societally where domestic violence is concerned generally – frequently in cases of domestic homicide, public and media discourse revolves around working out why a ‘good man would snap’, and focus centres on a perpetrator’s good deeds and possible reasons why a victim ‘provoked’ such an attack. This classic ‘just world theory’ thinking reflects a society that finds it difficult to accept that some people are abusive and that anyone could be a victim if they had the misfortune to meet and fall in love with the wrong person. If victim-blaming myths and discourse are so readily accepted even when someone has committed murder, it stands to reason that an unfettered reasonableness defence would enable victim-blaming myths to be utilised. Such a scenario may cause high levels of further harm to victims, who could potentially be subject to a character assassination in court. More worryingly, the end result could be a law that could only be successfully accessed by the ‘perfect’ or ‘ideal’ victim, as anyone with a disability, addiction, or mental health issue, might expect to be painted as unstable or lacking capacity to make their own decisions, with alleged abusive behaviour being ‘for their own good’. This may lead to high rates of attrition, or act as a deterrent against victims with disabilities or vulnerabilities even reporting in the first place.
- We recommend amending the Explanatory Memorandum to tighten up the circumstances in which it is anticipated that a reasonableness defence may be employed. We would argue that “*evidence that is enough to raise an issue as to whether a course of behaviour was reasonable*” is much too broad and would allow for this defence to be abused too easily and would call for this language to be tightened in the Bill.
- A potential safeguard to mitigate against the potential harm and distress for victims where the ‘reasonableness’ defence was to be relied upon could be to require the defence of reasonableness to be handled via application and heard in a closed hearing rather than potentially in front of a jury. This would place a burden on Defence to show to the trial judge that the defence is not being raised spuriously. If allowed, the burden would presumably fall on the prosecution to disprove beyond reasonable doubt. We are aware that similar mechanisms exist within our legal system, such as section 28 Previous Sexual History applications in sexual violence trials, and we believe the motivation for such safeguards in the case of the domestic abuse law would be similar.

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<sup>1</sup> See *Disabled Survivors Too: Disabled People and Domestic Abuse, Safe Lives, 2017*, available at <https://safelives.org.uk/knowledge-hub/spotlights/spotlight-2-disabled-people-and-domestic-abuse>

***Recommendation: The Committee should tighten the language used in the Bill governing when the reasonableness defence may be included and consider adding a pre-trial requirement for sufficient evidence to be brought forward before the reasonableness defence is allowed to be heard in open court.***

Clause 13:

- We support the provision for alternative offences of harassment and putting people in fear of violence to be available where the facts do not amount to the domestic abuse offence having been committed but do amount to offences under the Protection From Harassment (Northern Ireland) Order 1997 having been committed.

Clause 14:

- Victim Support NI strongly favours robust sentencing tariffs being attached to this offence as in its current form, both as a means of reflecting society's belief that domestic abuse is an abhorrent crime and to act as a deterrent to future abuse being perpetrated.

Clause 15:

- We support the inclusion of a generic aggravator within the law. For purposes of monitoring and better understanding the prevalence of domestic abuse-motivated crime in Northern Ireland, we are of the view that such an aggravator should not only be recorded upon conviction, but throughout the entire process from police report to resolution in court. This would allow for analysis of how many cases drop the aggravator at each stage of the trial process, would keep the domestic abuse element visible throughout the process, and would have a positive knock-on effect for victims seeking special measures.
- In cases where a generic aggravator is sought, and either accepted or rejected at sentencing stage, there should be an obligation on the trial judge to specify whether the aggravator is being applied, and give reasons for their decision.

***Recommendation: The Committee should consider creating an obligation for all legal practitioners to record the domestic abuse aggravator throughout the investigative, pre-trial and trial process, and provide written published reasons in cases where it is decided that this aggravator be removed.***

Clause 17:

- In line with our comments under Clause 11, we recommend that the Committee considers whether the existing suite of children's legislation has a direct equivalent to the provisions within this law, and whether amendments to that children's legislation

are necessary via another miscellaneous Bill to ensure parity of protection for child victims of coercive controlling behaviour and abuse.

***Recommendation: The Committee should examine child legislation to ensure that there is legal parity for child victims of domestic abuse whose abuser is someone with parental responsibility for them.***

Clause 22:

- We are strongly in favour of making complainants under this law eligible for special measures. Victims of domestic abuse are often vulnerable due to their fear of their abuser, and should therefore be eligible for special measures as a matter of course. This should also apply in cases where domestic abuse is an aggravator for a generic offence.

Clause 23:

- We welcome this provision. Domestic abuse by its very nature involves the control over another person via methods involving coercion, manipulation and intimidation. It would therefore be ethically dubious to force a victim of such abuse to submit to an interrogation by that abuser in a court setting, and may in fact amount to the courts facilitating further abuse in a public setting.

Part 2 - Family Proceedings: Cross-Examination

- Victim Support NI fully supports the proposed changes contained within Part 2 of the Domestic Abuse & Family Proceedings Bill. When the proposed change was consulted on last year, we stated that we supported all the proposed changes, and felt that domestic violence perpetrators being able to cross-examine their victims posed a direct threat to access to justice and public confidence in the justice system.
- We welcome that the prohibition is not only limited to cases in which convictions or cautions already exist, and includes those who have had an injunction or protection order brought against them or where there is evidence of domestic abuse. We understand that Regulations will be brought forward to further specify what that evidence might look like, and we suggest that it could include evidence of repeated police call-outs to a home, a MARAC referral, an attestation by a qualified support organisation, or a DASH assessment which adduces the victim to be at risk of harm.
- Given that there are many cases where victims are abused for years but do not report, we welcome the inclusion of a discretionary power to prohibit cross-examination as laid out at 11E. This will allow sufficient flexibility in cases where none of the criteria in clauses 11A-D are met, but there is a clear need to protect one of the parties in the proceedings from direct cross-examination by the other party.



## **Section 2: response to questions posed by the Committee**

*How this new domestic abuse legislation enhances existing legislation and whether it fully addresses the gaps in existing law and will improve the ability of the justice agencies to prosecute domestic abuse cases*

- Please see clause by clause analysis above

*The definition of the offence and the definition of abusive behaviour*

- We agree with the definition of abusive behaviour contained within the Bill, and welcome that the bill isn't gender specific.

*Any identified issues regarding the investigation and prosecution of the new offence*

- Justice agencies' collective ability to investigate & prosecute this offence will be contingent upon adequate police resourcing to allow for this kind of investigative policing to meet the evidential requirements of a course of conduct offence. It will also be contingent upon training of police first responders to recognise, identify and take appropriate action when coercive control is happening. This is a crime that will be primarily identified by ordinary responding officers on the beat, and civilian call handlers on the 101 and 999 phone lines, not specialist Domestic Abuse officers. If all responding officers and call-handlers are not adequately trained to identify behaviours that may constitute an offence / part of an offence, the law will not be used to the proper extent to protect victims.

***Recommendation: The Committee should consider adding a legislative requirement for training of all first responders to ensure that they are able to recognise behaviours that potentially breach this law.***

- It is also vital that adequate resourcing is allocated to aid police in enforcing the new law and investigating potential breaches of the law.
- As mentioned above, it will be crucial for training of legal professionals and anyone else potentially involved in gathering evidence / prosecuting new law to be rolled out. This might also include joint police & prosecutor initiatives to establish how to investigate and prosecute best. It is our view that training of all agencies involved in the prosecution (and defence) of this offence will be as important as passing the law itself.

***Recommendation: The Committee should consider adding a legal requirement 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.***

- This law has been in progress for a number of years now. Therefore, we see no reason why such training and resourcing would not be ready to roll out by the time this law receives Royal Assent. Victims of domestic abuse have waited too long already for these protections to be put in place.

*Whether the ‘reasonable’ defence included in the legislation is framed appropriately and the intent of when it would apply is clear*

- Please see our above comments under Clause 12.

*Whether the penalties provided for in the Bill are appropriate and adequate*

- Please see our comments above under Clause 14.
- Domestic abuse is well-documented as a crime with high levels of recidivism, both against the same partner and against multiple partners. Indeed, serial perpetration of domestic abuse is a huge issue for our justice system, and one which we have not yet found adequate solutions to tackle. Strong sentencing for this law, accompanied by awareness raising about the offence and what those convicted can expect in terms of sentencing, may go some way to act as a deterrent against abuse, particularly serial abuse by prolific perpetrators.
- We would also recommend that aggravated sentencing does not only need to equate to the length of a custodial sentence, but could also include attendance on a perpetrator programme. Such programmes should meet the Respect Standard<sup>2</sup> and place the safety and experience of the survivor at the centre of the work, and care should be taken that programmes are not used as an alternative when a custodial sentence is appropriate, or allow perpetrators to use their participation in such a programme as a further means to control and abuse. For information, the ten Respect Principles for perpetrator programmes can be found at Appendix A.

*Any other legislative or non-legislative approaches to tackle domestic abuse not currently in place that should be taken forward either in this Bill or in another piece of legislation or by other means*

- Northern Ireland is currently behind the rest of the UK in its approach to tackling stalking behaviours, which are widely regarded to pose an especially high risk to the safety of victims and carry an increased risk of homicide. Victim Support NI therefore welcomes the commitment of the Justice Minister to bring forward stalking legislation at the earliest opportunity. We do not believe that the domestic abuse law should be

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<sup>2</sup> See [https://hubble-live-assets.s3.amazonaws.com/respect/redactor2\\_assets/files/105/Respect\\_Standard\\_FINAL.pdf](https://hubble-live-assets.s3.amazonaws.com/respect/redactor2_assets/files/105/Respect_Standard_FINAL.pdf)

delayed any further so that stalking provisions should be added, but that a separate stalking law should be brought forward. In our view, the domestic abuse law should be passed as swiftly as it can effectively be done in the interest of protecting victims.

- Northern Ireland currently has no specific legal means to adequately tackle non-fatal strangulation and choking offences. This is an issue that has been flagged as a legislative gap both by Criminal Justice Inspection NI and Judge Barney McElholm in the Derry/Londonderry court. We welcome that the Justice Minister has initiated a review of the law in this regard and has set up a reference group to assist with the review, and we look forward to feeding into this process. As with stalking, we do not believe that the domestic abuse law should be delayed further in order to wait for this process to complete.
- Northern Ireland has yet to roll out DVPOs and DVPNs, despite provision to do so existing within s97 and Schedule 7 of the Justice Act 2015. We appreciate that a number of teething problems were identified following their roll-out in English & Wales, and that the Westminster Domestic Abuse Bill is set to address these issues to make them more effective. We further note that the Justice Minister has clarified her intention to bring such provisions forward via a later miscellaneous Bill. We support this action, again for the reason that the Domestic Abuse Bill has already been significantly delayed, and it is incumbent upon the Assembly to put measures criminalising coercive and controlling behaviour in place as swiftly as possible, both to meet its obligation to victims and to meet its international obligations under CEDAW.
- One aspect of law that is absent from this Bill and from comparable GB legislation is protection of migrants who are victims of domestic abuse. Those with insecure immigration status are especially vulnerable to domestic abuse and less able to report or leave, because they may fear that their complaint will be ignored and immigration concerns will take precedence, or their leaving the relationship will void their visa. If a victim has no recourse to public funds, they are not eligible for assistance such as refuge, floating support, or housing support as these are funded with public money. This is an unjust position to place someone in, where they are forced to stay in abusive relationships due to immigration concerns, or are unable to leave because they cannot afford safety. Furthermore, failure to provide adequate protective measures for migrant victims of domestic abuse breaches the UK's obligations under CEDAW and the Istanbul Convention. Whilst immigration is a reserved matter for the Westminster Government, this does not mean that the NI Assembly is powerless to take positive action to protect these most vulnerable of victims. The provision of a sustainable, permanent destitution mitigation fund that enables victims from migrant families to seek safety and establish a life independent from their abuser would be a positive move in the right direction. This fund should be able to cover housing costs and be of an adequate amount to support victims with children to be able to leave an abuser and thrive without them.

**Recommendation: The Committee should consider additional provisions within this law to better protect and support victims of domestic abuse who have insecure immigration status, or an immigration status that is dependent upon their abuser. This should include provision of adequate financial support to enable such victims and their children to safely leave an abusive relationship.**

- Domestic violence and abuse-related issues are not just played out in criminal courts, but across civil and family courts as well. It would therefore be useful if there was better linkage between courts, so that for instance a family court judge would know to take domestic abuse into account in a contact hearing or divorce case because they are cognisant of criminal proceedings relating to domestic abuse. A specialist domestic abuse court, housing criminal, civil and family courts under the same roof, would provide the ideal vehicle for such integrated, joined up thinking and action. We do not advocate this issue being dealt with in the current Bill, but would strongly urge that it is considered as part of the Department and the Committee's wider work to improve how domestic abuse is dealt with by our justice system.
- As we pointed out in our consultation response on cross-examination of domestic abuse victims in family courts, we strongly recommend that special measures are introduced in all family and civil cases where someone has been shown to be a victim of domestic abuse and the other party to proceedings is their abuser. As Sir John Gillen noted in his report on serious sexual offences, *"Logic strongly suggests that the same protection should be made available to women in the family jurisdiction as exists in the criminal jurisdiction. Why are we obliged to tolerate in family courts what would be forbidden in Crown Courts?"* Whilst this issue may fall outside the specific purview of the Department of Justice, we would nonetheless make the point that our draft Programme for Government's OBA focus places an onus on Government departments to cooperate and collaborate in the interest of achieving best outcomes for our society. We are of the view that the issue of extending Special Measures to civil and family courts invokes the same arguments, the same safety concerns and the same logic as ending cross-examination of domestic abuse victims, and that it is in the public interest for these issues to be dealt with together in the interests of economic efficiency and victim wellbeing.

**Recommendation: The Committee should add an amendment to the Bill to introduce Special Measures for domestic abuse victims in civil and family courts.**

- It would be invaluable to plan a sustained series of advertising campaigns around what domestic abuse is and what this law will make criminal behaviour once it has gained Royal Assent – this would enable people to identify the abuse they're suffering and recognise that they can now report it, and would act as a deterrent against behaviours that perpetrators formerly were able to get away with.

- We are aware that the Domestic Abuse Bill in England & Wales provides for the establishment of a Domestic Abuse Commissioner, and that there has been some debate as to whether such a role would be useful for Northern Ireland. We have considered this issue in the context that Northern Ireland does not have a Victims' Commissioner for victims of *any* non-Troubles related crime, and is far behind England and Wales in this regard. We are therefore of the view that it would benefit society most and be most cost-effective to create the post of Victims' Commissioner with sufficient powers and resources to hold agencies to account and act as a champion for all victims of crime, including domestic abuse, instead of establishing an individual Domestic Abuse Commissioner.
- We note that parental alienation is not specifically included or named in the Bill. We recognise that this is a complex issue – whilst alienating a parent from their child(ren) can be a form of abuse, so too can accusing a person of parental alienation when they are trying to protect their child from an abuser. It may be useful to include both these forms of abuse in any guidance relating to the law, to assist with the effective prosecution of this offence.
- Another missing element from this Bill is housing provision for victims of domestic abuse and their children. Safe, secure, affordable and sustainable housing has always been an issue for victims of domestic violence, and this issue has only been highlighted further by the COVID public health crisis and lockdown. Victims of domestic abuse who need to leave their homes in order to be safe should be able to do so. Whilst it is positive that refuge services continue to be provided for women and children by Women's Aid, and that safe houses have been set up during lockdown, we understand that victims are still turned away every year because there are no bed spaces. We also note that the lack of funding for safe spaces for male victims – in particular safe spaces where male victims can live safely with their children. Furthermore, it is neither possible nor advisable for victims of domestic abuse to live in refuges over a long-term period. There is need, therefore, for secure, long-term tenancies for victims of domestic abuse, so that they may live securely in a home that suits their needs and provides a safe haven for them to recover from the abuse they have suffered. We understand that Minister Long has written to Communities Minister Hargey about this issue, and encourage further action to be taken on this as soon as possible.
- Victim Support NI wishes to highlight the Operation Encompass initiative, which has had successful outcomes in England and could have a potentially great impact on child victims of abuse and their non-abusing parent. Operation Encompass is a procedure for when domestic abuse is reported in a home where children are present. It involves a simple call from the police to a designated Key Adult within the child's school, so they are aware before 9am of what the child has experienced and can act swiftly to support that child. We urge the Committee to consider whether Operation Encompass could be brought into Northern Ireland either via this law or

by using another miscellaneous bill as the vehicle for its swift introduction. For further information about Operation Encompass and how it works, see Appendix B.

***Recommendation: The Committee should include an amendment in this Bill to facilitate the introduction of Operation Encompass in Northern Ireland.***

- Further consideration should be given to how the Domestic Violence and Abuse Disclosure Scheme is functioning. Victim Support NI understands that whilst there currently seem to be a great number of requests, actual disclosures can be quite low. Further examination may be necessary to determine whether the burden for disclosure is too high, and whether those who are given a negative response are being referred to support services. Even if someone is denied an official disclosure, they may nonetheless be suffering abuse, and there is an early intervention opportunity here to disrupt abuse at an earlier stage and prevent further harm. We do not however feel that this warrants any legislative intervention within this Bill.
- There is a current gap in advocacy provision for victims of domestic violence and abuse. When MARAC was established in Northern Ireland, it was done without the inclusion of the Independent Domestic Violence Advocate (IDVA). This is a vital role, designed to support victims and ensure that their rights are upheld throughout their engagement with the justice system / any other system with which they must engage due to the abuse they are experiencing. We understand that DoJ intends to commission an advocacy model in the near future, which we welcome. However, whilst we commend DoJ on efforts to address this gap, we would stress that the needs of victims are broader than just criminal justice agencies, and that commitment from all relevant departments will be necessary to support the broad range of victim needs.
- Victim Support NI recommends that statutory guidance will be necessary to underpin the Domestic Abuse & Family Proceedings Bill, to address with the added complexities and intentions of the legislation. Such guidance would also serve as a particularly useful training tool. It is important that any such guidance is drafted with input from expert domestic abuse practitioners.
- As part of the government's commitment to take preventative and early intervention measures to disrupt the cycle of domestic abuse and coercive control within our society, Victim Support NI emphasises the need for standardised, mandatory Relationships & Sex Education (RSE) to be rolled out in schools. If we are to tackle the scourge of domestic abuse in our society, and prevent future domestic abuse-related crime, we must educate our young people to recognise abusive behaviours, equip them with the resilience to leave abusive relationships, and teach them not to be abusive towards others.

**Victim Support NI welcome the invitation to provide a written submission on the Bill and are content that the contents of this submission may be made public.**

**For further information, please contact:**

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## **Appendix A: Respect Principles for working with perpetrators<sup>3</sup>**

- 1) **Do no harm.** Organisations take all reasonable steps to ensure that their services do not create additional risks for survivors of domestic violence and abuse.
- 2) **Gender matters.** Organisations work in a way that is gender informed, recognising the gender asymmetry that exists in the degree, frequency and impact of domestic violence and abuse. They understand that men's violence against women and girls is an effect of the structural inequality between men and women and that its consequences are amplified by this. A gender analysis includes violence and abuse perpetrated by women against men and abuse in same-sex relationships, and these also require a gender informed response.
- 3) **Safety first.** The primary aim of work with perpetrators is to increase the safety and wellbeing of survivors and their children. The provision of an Integrated Support Service for survivors alongside the intervention for perpetrators is essential. When working with perpetrators it is important to recognise the need for behaviour change, but risk reduction should always be prioritised.
- 4) **Sustainable change.** Organisations offer interventions that are an appropriate match to the perpetrator, considering the risks they pose, the needs they have and their willingness and ability to engage with the service offered. This will ensure that they are offered a realistic opportunity of achieving sustainable change
- 5) **Fulfilling lives.** Organisations are committed to supporting all service users to have healthy, respectful relationships and to lead fulfilling lives.
- 6) **The system counts.** Domestic violence and abuse cannot be addressed by one agency alone and work with perpetrators should never take place in isolation. Organisations are committed to working with partners to improve responses as part of their local multiagency arrangements.
- 7) **Services for all.** Organisations recognise and respect the diversity of their local community and take steps to respond to everyone according to their needs.
- 8) **Respectful communities.** Organisations recognise that the environment their service users live in has an impact on their lives. They will make the links between individual change and the development of respectful communities.
- 9) **Competent staff.** Organisations deliver a safe, effective service by developing the skills, well-being and knowledge of their staff through training, supervision and case work support.
- 10) **Measurably effective services.** Organisations employ clear and proportionate measurement tools, which demonstrate both the individual benefits and the impact of interventions.

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<sup>3</sup> Taken from Respect Standard, available at [https://hubble-live-assets.s3.amazonaws.com/respect/redactor2\\_assets/files/105/Respect\\_Standard\\_FINAL.pdf](https://hubble-live-assets.s3.amazonaws.com/respect/redactor2_assets/files/105/Respect_Standard_FINAL.pdf)



## **Appendix B: Operation Encompass**

Operation Encompass ensures there is a simple phone call or notification, to a trained member of school staff, before a child arrives in school. The call or notification is triggered by police recently attending the child's home or being involved in a domestic abuse incident, that the child has experienced.

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Operation Encompass is a police and education early information sharing partnership enabling schools to offer immediate support for children and young people experiencing domestic abuse. Information is shared by the police with a school's trained Key Adult (DSL) prior to the start of the next school day after officers have attended a domestic abuse incident thus enabling appropriate support to be given, dependent upon the needs and wishes of the child.

Children experiencing domestic abuse are negatively impacted by this exposure; domestic abuse has been identified as an Adverse Childhood Experience and can lead to emotional, physical and psychological harm. Operation Encompass aims to mitigate this harm by enabling immediate support, making a child's day better and giving them a better tomorrow. Operation Encompass directly connects the police with schools to secure better outcomes for children who are subject or witness to police-attended incidents of domestic abuse. Rapid provision of support within the school environment means children are better safeguarded against the short-, medium- and long-term effects of domestic abuse.

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It is our aim to ensure that Operation Encompass is in every Force, in every school, for every child.

The Operation Encompass website is designed to:

- Provide training for Key Adults and a register of Key Adults.
- Provide a register of Police Forces taking part in Operation Encompass.
- Provide resources so that a school can participate successfully in Operation Encompass.
- Allow schools and police forces to actively share good practice.

For further information, see <https://www.operationencompass.org/>