**Bring Northern Ireland in to the Domestic Abuse Bill**

* The collapse of the NI Assembly and ongoing political impasse has left significant gaps in domestic abuse legislation.
* Prior to 2016, the NI Department of Justice had consulted on improving DA legislation, but a draft bill was unable to progress.
* The Draft DA Bill currently in Westminster only extends to England and Wales.
* Consequently, victims of domestic abuse in Northern Ireland will be denied a number of important legal protections available to victims who live in other parts of the UK. Data from the PSNI indicates that the numbers of domestic abuse incidents and crimes are rising.
* Extending the SCOPE of the bill to include NI does not mean extending all the provisions in the current draft bill to NI.
* If the scope of bill is extended to NI, the bill could include amendments that are SPECIFIC to the needs of NI – for example, a specific amendment on stalking, or a specific amendment for funding for VAWG organisations in NI.
* There are a number of examples of pieces of legislations that have been drawn and amended to reflect the different system and legislation in place in NI. In the Sanctions and Anti-Money Laundering Act 2018, Northern Ireland is exempted from certain provisions, and the duration of potential imprisonment is lower in Northern Ireland than England or Wales, which are also different from one another, to account for differences in legal frameworks.
* The Domestic Abuse Bill is an opportunity to address specific legislative deficiencies in NI, and gaps in funding. This is not a question of transposing a bill designed for England and Wales on to Northern Ireland – it is about using this bill to enact the changes needed in NI.
* The Bill will not achieve its stated aim of ensuring UK compliance with the Istanbul Convention unless the Bill is extended to include NI.
* Devolution is not an excuse for Westminster to not act. There has been no NI Assembly for over two years, and there is no sign of Stormont sitting in the near future. The UK government remains responsible for the human rights of all its citizens, including those resident in Northern Ireland.
* Including NI in the Bill would in no way prevent Stormont from passing NI-specific DA legislation in the future.

Deadline: 26th April

This is a government bill, which means it is likely to become law. It is currently in draft form, so we have an opportunity to shape the legislation to protect victims of domestic abuse in Northern Ireland.

There are currently no other opportunities to legislate for women’s rights in NI. Supporting amendments to the bill DOES NOT indicate support for the bill itself or the government, nor would it prevent the bill from being passed. Including NI in the bill DOES NOT prevent Stormont from passing future legislation on domestic abuse. It would, however, bring in to force important protections for victims of domestic abuse as soon as possible.

Submissions should focus on the SCOPE of the inquiry, specifically addressing the gaps in NI domestic abuse law, the need for Westminster to legislate, and the fact that the Bill as it stands does not enable the UK to be in compliance with the Istanbul Convention on preventing and combating violence against women and domestic violence.

There are a number of significant harmful disparities between domestic abuse legislation in Northern Ireland and the legislation that exists in England and Wales including:

* No single piece of legislation in NI law that describes domestic abuse
* No specific offence to capture coercive and controlling behaviour in NI
* Inadequate protections for victims of stalking and harassment

The Draft Domestic Abuse Bill is not perfect, but the protections it provides should be for all victims of abuse. These include the prohibition of cross-examination of victims by alleged perpetrators, and making the Domestic Violence Disclosure Scheme (“Clare’s law”) statutory.

There is further information below about the need to include Northern Ireland in the Bill, and submissions can be made here: [https://www.parliament.uk/business/committees/committees-a-z/joint-select/draft-domestic-abuse-bill/news/draft-domestic-abuse-bill-written-submissions-17-19/](https://protect-eu.mimecast.com/s/RAYhCqxqVUmVoMCZBwT3)

**Further information:**

**Without including NI, the UK will not be compliant with the Istanbul Convention**

The Government has made repeatedly clear that this bill is, in part, designed to ensure that the UK is in compliance with the Istanbul Convention. However, there are a number of ways in which the current bill would leave the UK in contravention of a number of articles in the Convention. These include:

**Article 4 (fundamental rights, equality, and non-discrimination).**

Article 4(3) requires that *“The implementation of the provisions of this Convention by the Parties…shall be secured without discrimination on any ground such as…national or social origin..[or] migrant or refugee status.”*

Because the draft bill does not extend to Northern Irish women the rights under multiple articles of the Convention, this amounts to discrimination on the grounds of national origin

**Article 34 (stalking)**

This Article requires that *‘the intentional conduct of repeatedly engaging in threatening conduct directed at another person, causing her or him to fear for her or his safety, is criminalised’.*

Northern Ireland has no legal definition of stalking. The Northern Ireland Department of Justice is currently consulting on the need for stalking legislation but this legislation cannot progress without an assembly in place.

**The gaps in NI DA law**

In recognition of the inadequacies of existing legal protections the Department of Justice in Northern Ireland held a public consultation on proposals for new domestic abuse legislation in 2016. Victims, survivors, VAWG organisations, and advocates overwhelmingly responded in support of proposed changes. However, the proposals were unable to progress due to the collapse of the Assembly in January 2017, and there remains no single piece of legislation in Northern Ireland that describes domestic abuse, and women in Northern Ireland are unable to access the proposed protections that received strong support from NI politicians and VAWG organisations.

Data from the PSNI indicates that the numbers of domestic abuse incidents and crimes are rising. Between 1st July 2017 and 30th June 2018, there were 30,595 domestic abuse incidents recorded, an increase of 4.8% on the previous 12 months and the highest of any 12 month period recorded since the data series began. The number of domestic abuse crimes reached 15,049, an increase of 8.6% and also the highest of any 12 month period since the data series began. In 20187/18, domestic abuse crimes represented 15% of all police recorded crimes, increasing from 14% during the previous 12 months.[[1]](#footnote-1)

In response to the 2016 consultation, a number of respondents highlighted that Northern Ireland may have some unique issues in relation to the effects of a post conflict society, and stated that the context and legacy of the conflict had ‘masked the perpetration of domestic and sexual violence.’ Evidence from studies of other post conflict societies suggests a link between the effect of civil conflict and a higher incidence of domestic violence.[[2]](#footnote-2)

There are a number of significant harmful disparities between domestic abuse legislation in Northern Ireland and the legislation that exists in England and Wales, including:

**No specific offence to capture coercive and controlling behaviour in NI**

Section 76 of the Serious Crime Act created a specific offence of coercive or controlling behaviour in England and Wales. However, the legislation did not extend to Northern Ireland.

Prior to the collapse of Stormont, the NI Assembly was looking to bring in legislation to create this offence, in order to “ensure no one type of abuse was treated less seriously or overlooked”, and to bring the law in line with the governments definition of domestic abuse. In their response to a consultation on the proposed changes, the Department of Justice NI reported that that “overwhelmingly, respondents considered that as there is no distinct offence, the current law needs to change to recognise domestic abuse in all forms.”

In their consultation response, Women’s Aid NI submitted testimony from focus groups of victims and survivors of domestic abuse, some of whom stated that “the coercive control element of their abuse is much worse to endure, and more difficult to recover from, than the physical violence.”

*“Slap me, punch me, kick me, but don’t put me through one more hour of mental torture”*

*“I am so broken. He has broken me from the mental torture.”*

*“If I had a choice between being physically or mentally tortured, I’d choose the beating.”* *[[3]](#footnote-3)*

Victims and survivors also stated that they didn’t report much of the abuse that they suffered because “it wasn’t physical.” Creating the specific offence would “send a clear message that all forms of domestic abuse, whether physical or emotional, are unacceptable and will result in serious consequences.”

**Inadequate protections for victims of stalking and harassment**

In 2012, the law relating to stalking in England and Wales was overhauled – yet the equivalent law remains in place in Northern Ireland. In England and Wales, the Protection of Freedoms Act 2012 created two offences of stalking. The definition makes it clear that an offence is committed where a course of conduct cause fear of violence or serious alarm or distress, closing the lacuna whereby a victim may not fear physical violence, but does feel serious alarm or distress. This protection is not afforded to women in NI, and there is no legal definition of stalking in NI; the applicable law is still the Protection from Harassment (NI) Order 1997.

This does not effectively protect victims. The law is frequently breached, with between 60-70% of non-molestation orders breached by the perpetrator, and infractions are unenforced.[[4]](#footnote-4) For women seeking criminal proceedings, restraining orders against their partner cannot be applied for until the criminal proceedings have concluded, leaving victims with little protection during an incredibly vulnerable time. Research by Women’s Aid NI also found that many victims or survivors of domestic abuse were not aware of harassment laws or didn’t feel they were suitable for domestic violence cases, and many felt that the criminal justice system did not view harassment legislation as applicable in intimate relationships.[[5]](#footnote-5)

**The Draft Domestic Abuse Bill is not perfect, but the protections it provides should be for all victims of abuse. These include:**

**Prohibition of cross-examination of victims by alleged perpetrators**

The Draft Domestic Abuse Bill includes a prohibition on perpetrators of domestic and other forms of abuse cross-examining their victims in person in the family courts, and prevent victims from having to cross-examine their abusers.

The direct cross-examination of victims by their abusers can be re-traumatising, and the prospect of this deeply distressing experience can leave victims feeling unable to give evidence.[[6]](#footnote-6) Convictions rates for DA are decreasing in Northern Ireland.[[7]](#footnote-7) This Bill must be extended to support victims of domestic abuse whether they are in a courtroom in Brighton or Belfast.

**Statutory DA Commissioner**

The Draft Bill will establish a Domestic Abuse Commissioner in law. The Commissioner will provide leadership, monitor provision of services, share and embed guidance and best practice, and will establish a victims and survivors advocacy group.

However, those resident in Northern Ireland NI will not be within the remit of the DA Commissioner. It seems cruelly ironic that in their notes accompanying the Draft DA Bill, the government has stated that they “don’t need to wait for the bill to become law before making progress”, and will therefore be recruiting a non-statutory Designate Domestic Abuse Commissioner to perform this role while the Bill progresses through parliament. This suggests the government views the establishment of this role as particularly urgent – yet women in Northern Ireland will be left waiting indefinitely for any kind of commissioner, statutory or non-statutory.

**DVDS will not be on statute**

A non-statutory Domestic Violence Disclosure Scheme (“Clare’s law”) was introduced in England and Wales in 2014 and in Northern Ireland in 2018. However, it remains underutilised and inconsistently applied, leaving women without this important protection.

In total, 32% of respondents to the government’s consultation stated that they had not heard of the DVDS before reading the consultation; of this, 61% were victims, indicating a clear need to increase awareness of the scheme. The majority of respondents – 57% – agreed or strongly agreed that the guidance underpinning the scheme should be put into law.[[8]](#footnote-8)

*“I did not know my ex-partner had a history of domestic violence. I found out about Clare’s Law after I was assaulted by him. If I had known about Clare’s Law and his history of domestic violence I would never have been in that situation.”*

The draft DA Bill will put the guidance on which the DVDS is based in to statute in England and Wales, placing a clear duty on police and strengthening the visibility, accessibility, and use of the scheme, and also look to allow for online applications to the DVDS to increase accessibility. The government have said that that they believe “this will result in more people being warned of the dangers posed by their partners (or ex-partners) and help keep victims safer.”[[9]](#footnote-9) Those resident in Northern Ireland are no less deserving of this protection.

**DAPN and DAPO**

These powers will streamline and simplify existing domestic violence protection orders. DAPOs also have greater powers and wider scope, can be used to implement constructive requirements on perpetrators such as attendance at drug rehabilitation courses, as well as restrictions. They also allow for criminal, rather than civil, sanction, with tougher penalties.

1. <https://www.psni.police.uk/globalassets/inside-the-psni/our-statistics/domestic-abuse-statistics/2018-19/q1/domestic-abuse-bulletin-jun_-18.pdf> [↑](#footnote-ref-1)
2. <https://www.justice-ni.gov.uk/sites/default/files/consultations/justice/domestic-abuse-offence-domestic-violence-disclosure-scheme-summary-of-responses.pdf> [↑](#footnote-ref-2)
3. Women’s Aid Federation Northern Ireland, “A response to the consultation….” 29th April 2016 [↑](#footnote-ref-3)
4. [↑](#footnote-ref-4)
5. Women’s Aid Federation Northern Ireland, “A response to the consultation….” 29th April 2016 [↑](#footnote-ref-5)
6. [↑](#footnote-ref-6)
7. [↑](#footnote-ref-7)
8. <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/772202/CCS1218158068-Web_Accessible.pdf> [↑](#footnote-ref-8)
9. [↑](#footnote-ref-9)