Introduction

'We feel that if Scotland is really to be the best place to grow up then why are children still suffering in their own homes?' (John)

The IMPACT project is a partnership between 8 young survivors of domestic abuse and Dr Claire Houghton, The University of Edinburgh. The 8 young adults experienced domestic abuse alongside their mothers when they were children. As teenagers/young people they were the first group of young experts to advise the Government on tackling domestic abuse- Voice Against Violence (www.voiceagainstviolence.com). This response is informed by lived experience and their peer research and participation projects with many other young survivors. It is also informed by the wider research and literature reviews of Dr Claire Houghton. IMPACT members have advised the Government, Board and Justice Expert group in relation to the inclusion of children in this Bill and Equally Safe Policy. The main points are:

- The Domestic Abuse Bill is a major step forward in defining and criminalising the reality of domestic abuse ‘yes, that’s how it really is’ (Karen). The psychological abuse, the effects and the course of conduct (rather than incidents) are fully supported, as is the inclusion of abuse by ex-partners ‘for the families brave enough to leave we need to look at the impact …the intimidation…once they’ve left’ (Jack)
- We fully support the aggravator which responds to our point that the coercive control of women through children should be included, ‘we have all been used to manipulate and control our mothers’ (group), and feel it could be strengthened further; we note the ‘effects’ could cover the effects of the abuser’s behaviour on ‘being a mum’ (Karen’s mother) which was a connected point
- The offence as it stands speaks about abuse directed at children but does not hold the perpetrator accountable for that abuse ‘so these effects, that I have experienced, do not apply to me?’ (Declan); nor does it recognise children as victims ‘yet we go through it together’ (Marc) or as people with human rights ‘this makes me feel like a non-person’ (Lola).

We maintain our strong view that there needs to be a criminal offence of domestic abuse against children, preferably within or at the same time as this Bill. The key outstanding issue for Voice Against Violence is that people, society, policy-makers still think domestic abuse is between adults, this we challenge in our short film that we appeal to the Committee to watch [https://vimeo.com/46351903] and consider as evidence. We are also very willing to give oral evidence to the Committee alongside Dr Houghton, with the caveat of confidentiality and sensitivity (pseudonyms are used in this response).
People still don’t get it - after all these years of lobbying - people still see domestic abuse as being something an adult faces, it’s not just about adults, children have feelings too, we see and hear a lot more than you think, we get hurt and are frightened, our lives are controlled BUT...we are strong individuals and help protect our families. (Chloe)

**Domestic Abuse Bill: Response to the Key Issues from the Committee**

We completely agree that the justice system’s response to domestic abuse needs improved, as did the young people who took part in our survey (600+ participants, 2011) and children we worked with who were receiving support from ASSIST and Women’s Aid. For children and young people key issues are: being visible and heard; accessing specialist support immediately someone knows you’re experiencing domestic abuse (court witness or not); much better experiences as witnesses alongside specialist support/advocacy workers - being able to tell your story, quickly, with support ‘we can speak for ourselves’ (Chloe); feeling recognised as victims and that we’ve got justice; then being able to get on with our lives, without further abuse through contact, is important. We feel this Bill could contribute to much of that in relation to women and children’s access to justice and the system/society’s understanding of abuse.

Our responses in relation to questions 1, 2 and 3 from the Committee overlap and are very positive and supportive of the new offence, the revised definition and the course of conduct which we believe strongly reflect the reality of domestic abuse and are much-needed.

1. *Do you agree with the proposal in the Bill to create a new offence of abusive behaviour towards a person’s partner or ex-partner covering both physical violence and non-physical abuse?*

2. *Do you consider that the proposed offence is needed to address a gap in the existing law which currently makes it difficult to prosecute some forms of domestic abuse?*

3. *Do you have any views on the definition of the offence, such as the requirement for a course of behaviour, the definition of abusive behaviour, or the defence that the behaviour was reasonable in all the circumstances?*

Yes, we wholeheartedly agree with creating a new offence and that there are gaps in existing law. To us this is the first time that the government and justice system have come close to capturing the reality of domestic abuse and holding the perpetrators to account for the abusive behaviour rather than an incident or ‘just’ physical abuse. We do need to criminalise the psychological abuse and the course of conduct, the reality is that the effect on victims of a period of living with domestic abuse is not taken seriously and victims experiences of psychological abuse and control are not listened to, yet can be the hardest thing to live with.

Things have finally reached a point where definition of domestic abuse, adult to adult, makes sense and is a good representation of what domestic is. (Karen)

Treading on eggshells, it’s not a way to live (Declan)
Without that control there is no logical reason to stay in the first place, it’s not like you would stay if he hit you if something was not already set up to destroy your confidence to such a level. (Lola)

It’s being frightened, a lot of the time. (Jack)

This Bill is a vital step in recognising the reality of abuse; the psychological abuse and fear that families experience every day - it permeates our lives. This Bill sends a clear message to the justice system, and society too, that psychological abuse is serious, a crime and victims should be listened to and responded to sensitively and appropriately: ‘it’s just not taken seriously enough at all’ (Chloe). We fully support holding the abuser accountable for actions of psychological and physical violence.

This is a null and void question, yes of course it is needed. Yes, criminalise psychological abuse. We fully support the definition as it applies to partners/ex-partners and the abuse and effects it captures in relation to B. This makes the justice system take seriously - that if A does x,y,z then that is a serious crime. (Karen)

Victims are not listened to, not taken seriously enough, this could help address this. We are fighting for this law because the laws already available do not seem to give justice to the victims of domestic abuse.

We also recognise the effects as reflective of the reality of domestic abuse but do feel concerned children are not explicitly mentioned in terms of isolation, denial of freedom etc. ‘i.e. leave this house and you will never see your children again’ (Karen). However, most effects could be applied to the abusive behaviour affecting the mother-child relationship if people were trained in this and recognised women and children’s experiences and the importance of their relationship.

It is good to see that ‘a child’ has been specifically added as ‘any other person’ in relation to the behaviour and to see the aggravator added, which does, to us, beg the question why is the child still not recognised as a victim of psychological abuse and control alongside their mothers?

Treading on eggshells becomes a family trait, putting the blame on yourself whenever an incident occurs second nature. (Lola)

You feel like you have to protect your family by keeping everything a secret. You don't know what is normal. Fear becomes a natural part of your daily life, and you lose part of your childhood. I couldn't go out to play in case I needed to hide with my little brother, and I was under a lot of pressure to keep everything bottled up. (Lola)

He didn't actually hit us, but I never had friends round, never had a birthday party, I wasn't allowed to do anything [unlike brother] we knew he was going to force me into marriage, that's why mum left. (Raya)

I didn't have any freedom of choice even to the extent normal children have (Lola).

4. The offence is restricted to abuse between partners and ex-partners. Do you agree with this approach? For example, during the Scottish Government’s
consultation on a draft offence, concerns were raised that it did not properly reflect the impact of domestic abuse on children. The Scottish Government has sought to address this concern in the Bill, primarily by providing that the offence will be aggravated where it involves a child. Do you have any views on this aspect of the Bill?

We agree that the law should recognise specifically partner abuse but feel that ‘it’s only half the story’ (Declan) where children are involved - in these cases children need to be named as victims. Is there not a way that children who are part of this relationship can be included in the frame of this Bill - thereby keeping the focus on partner/ex-partner abuse? We are very worried about losing the steps forward made, that it is a specific form of abuse between partners but where children are involved it is ‘simultaneous abuse of women and children and children are not just passive observers in this’ (Lola). We fear that more general laws won’t recognise how our experiences are linked to our mothers: …this doesn’t allow for children to be recognised as victims and it needs to. For women with children half the context is missing. (group)

We appreciate and completely agree with the addition of the child aggravator, this is a big step forward. We have all been used as tools to control our mother, this Bill now recognises ‘how the perpetrator uses children’ (Karen) which is very important to us.

The perpetrator uses the child as ‘ammo’ in a domestic abuse situation and that’s one of the specific contexts that got lost before this and would get lost in a general law [about child abuse]. (Karen)

Pleased to see 2 (b) as well as 2 (a) as it’s a step towards us recognising the child does experience it - I like ‘see, hear or is present’, though it doesn’t matter where we are, we suffer the effects. (Declan)

It’s not just physical, it’s not having enough food on the table. (John)

‘It’s got to recognise the climate of fear’ (Lola).

It is also positive that for the aggravator courts don’t need two forms of evidence for this or to have to provide evidence of the impact on the child (though that’s often not difficult). Our main point is that being a member of the household where domestic abuse occurs - ‘basically, having a mum that experiences domestic abuse, means that you do [experience it]’ (Scott), it does mean that those children will suffer and experience the behaviour and effects, so this aggravator could be even stronger and wider. Children are experiencing the abuse, fear, alarm, distress and threats daily - it is horrendous - but it does not mean you are always ‘present’ nor even necessarily seeing and hearing particular ‘incidents’: living with this ‘course of conduct’ is harmful to the child.

It seems a contradiction to us that the perpetrator’s abusive behaviour -through involving the child and behaviour directed at a child- is recognised (quite rightly) here but the perpetrator is not then held to account for the effects of his behaviour on the child (as well as to the mum through the child). Nowhere does this Bill recognise the
fear, alarm and distress a child feels, the physical and psychological abuse they suffer, the perpetrators intent or recklessness to their suffering and this needs addressed.

Behaviours directed towards a kid and not being dealt with? This isn’t sorted. (Lola)
So, the person who suffers ‘effects’ will always be the partner and not the child? This is an issue for us as the child suffers all these effects. (Declan)

Nor does this Bill then afford the child, as an individual, protection from this abusive behaviour.

It is stated in law that you can use a child to abuse a partner - good that it is reflected in this but… if a child can be used to abuse your partner don’t you need to look at protecting that child? You need to acknowledge you need to protect that child as well. You have acknowledged that it is a crime - so how can we prosecute the perpetrator for that? (Karen)

In this Bill the perpetrator’s behaviour is always related to the first person (victim) and in our experience it shifts and changes over time across the family- over the ‘course of conduct’. The abusive behaviour is sometimes targeted at the mother to frighten the child, at both to separate them or prevent comfort, at the child secretly and/or separately

even my severe abuse - severe child abuse - physical and being locked up- wasn’t really recognised in court, never mind the stuff that’s not obvious, like it’s not obvious neglect signs or child abuse, it’s things like the fear and threat of him punishing mum if I didn’t do a small task like clean something - that's coercive control and you can’t separate it out. (Lola)

some perpetrators have made us witness rape or intervene to save our mothers life - even these didn’t get severe sentences and the effects on us weren’t even brought up as relevant in court. Justice and sentencing is really important to us and some kids in our survey. (John)

the focus of abuse can shift when we leave and the ongoing contact is used to drip-feed control, using us to report on our parent and that is abusing the child too (Lola).

5. Do you have any views on factors which might impact on the reporting, investigation and prosecution of the offence?

People do not see domestic abuse, especially psychological abuse, as an offence and women and children will always be scared of reporting it due to threats from the perpetrator of what will happen if they do. A specific Domestic Abuse Law, that everyone knows about, will go a long way to addressing this and reassuring adult and child victims it is worth reporting.

Public perception of domestic abuse as ‘between adults’ has real life consequences on children’s lives (Houghton, 2013, 2015, VAV’s work). Children do not have the language to name domestic abuse and to name it as something happening to them, feel silenced and can’t speak out about their suffering. Adults can ignore children,
ignore the perpetrator of domestic abuse as the problem, not listen to children, ignore warning signs and respond inappropriately. A lack of language is a real barrier to speaking out - we need a language that includes children, criminalises the behaviour and then we need to communicate what this is to everyone.

Children and young people can help the Government communicate this, for example, Voice Against Violence co-created an advert with the Government in 2011 (https://www.youtube.com/watch?v=Sf5yJq7ubU) to try to give children and young people a language to name their abuse and ways to access support. The online advert received 2.5 million hits in 6 weeks and ChildLine traffic increased during that time by 200%. Multi-media communication and education to children and young people needs developed - about abuse and what it is, that it is a crime and how to get help. This needs to be accompanied by training for all professional, we would prioritise teachers for this training as they are key to identifying and responding to children, schools are where we need information and access to specialist support like Women’s Aid and ASSIST.

We also recommended an interactive website with support attached, linked to how to access your local specialist children’s support and advocacy worker. Despite our efforts this has still not materialised although we have a good basis that could be developed with other, younger children and young people now.

6. The Bill makes a number of reforms to criminal procedure, evidence and sentencing. For example, it would prohibit the accused in a domestic abuse case from personally conducting the defence. Do you agree with this prohibition?

All of the reforms we agree with and need to be made relevant to children and young people and child witnesses, here are a few illustrations:

- Children involved in the household and not just child witnesses should be protected in bail conditions: ‘he just came straight back’ (Declan), ‘he came to the school to frighten us all’ (Jack)
- The perpetrator conducting the defence would be horrendous and should not be allowed to happen (group agreement)
- We need a new system for child court witnesses that is quick, supportive and gives them a voice, influence on decisions, justice and care

You have included them, not enough, now you need to give children a voice - now make them heard. (Karen)

…don’t presume we don’t want to be involved, we already are. (Declan)

I wanted my day in court… the Sherriff listened to me as well as mum. I was taken seriously…it gives you a sense of worth. (Karen)

- Children need also considered as victims alongside their mothers when looking at victim safety

To us, sentencing is really important and it is to many younger children we have spoken to.
Sentences are important for children - for protection and, also, if there’s no consequences, what’s to discourage people from doing it? (Declan)

7. The Bill would also require the court in a domestic abuse case to consider making a non-harassment order. What are your views on this approach?

We agree with this approach, we would prefer it to be mandatory if we had our chance. The non-harassment order needs to include all the children involved and we hope the Government can amend this non-harassment order so that it includes children now that they are recognised in the Bill and the aggravator (to some extent).

Our question is, how can you make this interact with our Human Right to be protected and participate in decisions, particularly in relation to child contact. Perpetrators granted contact often continue to harm us and our mothers - how can you make these two systems interact to make sure we don’t carry on suffering fear, alarm, distress through contact as well as harm?

We are glad the harm is going to be recorded - how can that information affect decisions about contact? This is one of our biggest causes for concern: ‘it doesn’t end when we leave, we need to do something about contact, not just talk about it’ (Jack).

Conclusion

This Bill is a fantastic step forward. There is a widespread lack of recognition of the reality of domestic abuse, of coercive control, and this will go a long way to addressing it. The Act needs to be accompanied by training and guidance, especially for justice professionals - we are not convinced that this will be applied consistently without a huge effort put into training. Public awareness, co-developed with adult and child survivors, is key - one of the impacts of this legislation could be helping women and children name and report the abuse they are suffering, through reassuring them that the justice system, professionals and our Parliament, can see its seriousness and the effects on the whole family.

If you can give the victims - adult and child- a sense of worth by recognising they were abused in this form and this is how the person who abused them is suffering for it, you give them a sense that justice has been carried out (Karen).

We recognise the Government is working hard on this but there does need to be a domestic abuse child law closely connected to this Bill and without delay. Our fear is that without this we could go ‘back to old stereotype of kids being passive observers, they don’t actually take it all in’ (Lola). Protecting our mums does help us but you need to protect children too - you need to explicitly recognise them as victim/survivors and human beings with rights.

What we have here is a good start (Declan).

BUT, the same needs to be done for children. Domestic abuse against children needs to be a crime, and the perpetrator has to be held to account. (Karen)