Key issues

The policy objective of the Bill is to improve how the justice system responds to domestic abuse. The Committee welcomes evidence on any aspect of the Bill. This could include views on the following questions:

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?

Yes.

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?

Yes.

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?

No, not at this stage.

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?

Yes, the impact of abuse on children is very serious and any offence affecting a child should be taken seriously.

With regard to abuse in relationships other than partners and ex-partners, I think this offence should be restricted. However, there should be other offences where caregivers and family members are abusing adults.

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

People with mental health problems are often disadvantaged when reporting abuse and when an abuser is being prosecuted. A particular subgroup which find
themselves even more disadvantaged are women with a diagnosis of Borderline Personality Disorder. They are not believed and they are seen as unreliable. However, they are more likely to be subjected to this kind of abuse, where an abuser will play on their vulnerability, low self-esteem, anxiety etc. and often deliberately make these worse. Gaslighting is a word applied to this behaviour.

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?

Most definitely.

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?

No views at this stage.

Anne O’Donnell
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