Introduction

PCS Scotland is pleased to submit views the consultation on the Scottish Government response to the UK apprenticeship levy.

Who we represent

PCS is the largest civil service union in Scotland. We have members across all UK Departments including DWP, HMRC, Home Office, DfID and the MoD. We represent staff in Scottish Government, most of its NDPBs and Executive Agencies and in Non-Ministerial Departments. We also represent staff in statutory bodies such as the Scottish Parliament Corporate Body and in private companies where functions have been transferred from central government.

Q1. 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?

PCS agrees with the proposal to create a new offence. PCS believes that the existing legal framework, by focusing on individual incidents of assault or threatening behaviour, fails to recognise the particular nature of domestic abuse. Abuse within a relationship is often psychological rather than physical, taking place over a sustained period of time. Existing laws make it either impossible, or at least extremely difficult, to prosecute emotional abuse.

PCS supports the Equally Safe Strategy, and in particular the stated aim to build a society where women and girls are free from abuse; where there is a zero tolerance approach to violence against women and children and which recognises the importance of a gendered approach to addressing inequality.

Representing a membership made up of over 55% women PCS recognises that domestic abuse is a workplace issue. It follows our members into the workplace, affecting performance, attendance and general physical and mental health and well-being in the workplace.

Q2. 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?

The perception of domestic abuse as an individual, physically violent act still persists. The proposed offence means that behaviours that result in long-term and cumulative psychological and emotional harm will be properly recognised as domestic abuse. PCS supports this.
The breadth of the proposed offence, coupled with the ability of the courts to interpret widely on a case by case basis extends the impact of this beyond the approach taken in England and Wales on coercive and controlling behaviour. We feel that the approach being taken in Scotland is more coherent and progressive, better able to address the needs of our members subject to domestic abuse and more likely to achieve a society in which any form of domestic abuse is neither tolerated nor accepted.

Q3. 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?

PCS supports the broad definition of the type of behaviour that is likely to fall within the terms of the offence. In particular we welcome the inclusion of “being prevented from attending work” as a specific example in line with our agreed policy that domestic abuse is a workplace issue.

This is borne out by the reported experience of our representatives, with members reporting that they miss work for reasons including being unable to travel due to the withholding of money, concerns about children left at home and concerns that the abuse will continue within the workplace via telephone and email.

The introduction of domestic abuse as a specific legal offence, in recognising the impact of this type of behaviour and clearly categorising it as domestic abuse, will help to encourage those affected to come forward to seek help. It will also add weight to the need for employers to introduce specific workplace policies to tackle domestic abuse, in line with longstanding PCS policy.

We are concerned about the need for corroboration in establishing that there is a “course of behaviour”. The very nature of coercive and controlling behaviour means that it can be subtle and insidious, often involving behaviour that will be unnoticed by a casual observer until the wider context of a pattern is taken into account. It may therefore be difficult to secure corroboration.

Q4. 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?

No specific views on this.

Q5. Do you have any views on factors which might impact on the reporting, investigation and prosecution of the offence?

No specific views on this.
Q6. 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?

PCS agrees with this proposal, which in many cases simply continues the abuse.

Q7. 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?

PCS supports making it mandatory for courts to consider making a non-harassment order mandatory. As a civil remedy particular to Scotland these are currently under-utilised and possibly not widely understood. If consideration is not mandatory then this is unlikely to change as a separate application will need to be made by the prosecution.

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