

Scottish Law Commission submission of 26 September 2023

PE2025/B: Improve the support available to victims of violence, who have been forced to flee their home

The Citizen Participation and Public Petitions Committee asks the Scottish Law Commission for an update on its review of civil remedies for domestic abuse. In particular, the Committee seeks clarification on whether the issues raised by this petition will be included within the scope of the review.

The petition calls for the Scottish Parliament to urge the Scottish Government to improve the support available to victims of domestic violence who have been forced to flee the marital home by:

- ensuring access to legal aid for divorce proceedings where domestic violence is a contributing factor;
- ensuring victims are financially compensated for loss of the marital home, including loss of personal possessions and furniture left in the property; and
- ensuring that victims are consulted before any changes are made to non-harassment orders.

The Commission's Aspects of Family Law Project is focusing on a review of the civil remedies available for domestic abuse, as part of our [11th Programme of Law Reform](#) (which runs from January 2023 to December 2027). This review is considering, among other matters, whether the existing civil remedies for domestic abuse are adequate and sufficient to provide victims of domestic abuse and violence with prompt and effective protection. It is also considering whether the existing statutory framework which provides for these remedies should be simplified, clarified, and modernised.

The Commission's family law team is currently preparing a Discussion Paper, which we hope to publish in the first half of 2024 for consultation, seeking views on the law of civil remedies for domestic abuse and on options for its reform. We have had some initial meetings with practitioners, decision makers, academics, and domestic abuse support groups to hear their perspectives on the difficulties of the law in this area. We have also established an Advisory Group of members from

both a legal and non-legal background to provide us with their expertise and advice as we prepare this consultation paper and throughout the life of the project.

In response to the three specific points raised in the petition:

- our project does not extend to a reform of divorce law, nor does it focus on legal aid. That said, we are aware of the difficulties which can be faced by victims of domestic abuse in accessing legal aid when they are seeking civil remedies for domestic abuse. However, we consider that this is principally a matter for the Scottish Government and the Scottish Legal Aid Board and not a matter for this project;
- we are considering whether and how victims of domestic abuse might be able to obtain remedies against perpetrators of domestic abuse, including for loss of personal possessions and furniture left in a shared property. We note that partners have existing rights to property at the end of the relationship in terms of the Family Law (Scotland) Act 1985, on divorce or dissolution, or may have a claim under the Family Law (Scotland) Act 2006 at the end of a cohabiting relationship;
- we are reviewing the efficacy of non-harassment orders available under the Protection from Harassment Act 1997, as well as other civil remedies for domestic abuse. As part of our consultation exercise, we will continue our engagement with support groups, such as Scottish Women's Aid, Hemat Gryffe, Shakti Women's Aid, Safe Lives Scotland, and others, with a view to ensuring that the voices of victims and survivors of domestic abuse are heard. Our consultation exercise, in the form of our Discussion Paper, will also be publicised on the Commission website and via Commission social media when it is published. We expect this will be in the first half of 2024.

I trust that this is of assistance.