

Scottish Government submission of 3 November 2023

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

Thank you for your letter to the Scottish Government following the Citizen Participation and Public Petitions Committee's recent consideration of the above petition. In your letter you requested an update on progress to implement Part 1 of the Domestic Abuse (Protection) (Scotland) Act 2021 (the 2021 Act).

I would like to begin by stating that the Scottish Government recognises the terrible circumstances outlined by the Petitioner, which no person should ever have to experience. I would like to assure the Committee that the Scottish Government is fully committed to working with relevant partners in improving the response to those experiencing domestic abuse and preventing situations, such as that outlined in the petition, from arising.

In response to the request by the Committee in relation to implementation of Part 1 of the 2021 Act, I think it is useful to set out the work undertaken to date and to highlight some of the emerging challenges encountered in relation to commencement.

By way of background, Part 1 of the 2021 Act, when commenced, will give Police Scotland the power to issue a Domestic Abuse Protection Notice (DAPN) to someone suspected of causing harm to someone they live with some or all of the time. This could be used to prevent a person suspected of causing harm from entering the home shared with the person suspected of being at risk. The intention is for a DAPN to be utilised where domestic abuse is suspected but there is insufficient evidence to pursue a criminal route.

Due to human rights considerations, a DAPN is only able to be in place for a very short period of time. On issuing a DAPN, Police Scotland would then apply to the civil courts the next court day for a Domestic Abuse Protection Order (DAPO) which, if granted by the courts would give the person suspected of being at risk of harm, up to three months breathing space in which to consider their longer-term options.

Following Royal Assent an Implementation Board was established to work with relevant partners including Police Scotland, the Scottish Courts and Tribunal Service and Scottish Women's Aid. The work was paused in October 2021 due to other priorities but was re-established in November last year. In addition to the re-established Implementation Board, an Operational Working Group comprising of justice stakeholders that will be operationally impacted by the 2021 Act, was established to work through the detail of how the legislation could operate.

There are several challenges in relation to the implementation of Part 1 of the legislation. In summary these include but are not limited to, an estimated higher than anticipated volume of cases, how the timescales laid down in the legislation impact on operational justice agencies and challenges in how the views of children can be gathered in a way that does not cause additional harm or trauma. These issues all have associated resource implications. In addition, there are a number of practical aspects to the implementation of the legislation for operational justice agencies that require further consideration as to how these could be resolved.

It is worth noting that Scotland is not unique in experiencing challenges in implementing a protection notice and order scheme. The broadly equivalent scheme in England and Wales, Domestic Violence Protection Notices (DVPNs) and Orders (DVPOs) took over 4 years to be rolled out across all 43 police forces. The scheme is planned to be repealed following conclusion of the Home Office and Ministry of Justice led pilot of its revised DAPO scheme through the Domestic Abuse Act 2021.

[Domestic Abuse Protection Notices / Orders factsheet - GOV.UK](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/94211/Domestic_Abuse_Protection_Notices_-_Orders_factsheet.pdf)
(www.gov.uk)

The UK Government has also encountered challenges in how the pilot will operate in practice in England and Wales and is currently working through how these could be resolved. Similarly, Northern Ireland is progressing with the development of its DAPO scheme. The detail of the Northern Ireland scheme will be set out in regulations, but the development of these is proving challenging.

Despite the challenges in implementing the Domestic Abuse Protection Notice and Order scheme, the Scottish Government remains committed to working with stakeholders to deliver a scheme that realises the intended benefits of the legislation.

Officials will continue to keep the Committee updated on progress to implement the 2021 Act.

Criminal Justice Division