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Dear Convener,

NON-IMPLEMENTATION OF LEGISLATION: DOMESTIC ABUSE

Thank you for your letter of 8 October 2026 to Jamie Hepburn, Minister for Parliamentary Business, about unimplemented legislation, including Part 1 of the Domestic Abuse Protection (Scotland) Act 2021.

As Minister for Victims and Community Safety, I have portfolio responsibility for implementation of the Domestic Abuse Protection (Scotland) Act 2021 and I am happy to provide an update on that work now, and also to offer regular updates on progress, which I suggest would be most useful if provided on a quarterly basis. In which case I would propose to provide the Committee with a further update just prior to the February 2027 recess.

Regarding the unimplemented legislation, Part 1 of the Domestic Abuse Protection (Scotland) Act 2021 provides for the issuing of Domestic Abuse Protection Orders (DAPOs). These could be used to require a suspected perpetrator to leave (or prohibit them from returning to) a home they share some or all of the time with a person at risk and prohibit them from contacting or approaching that person. These court orders are intended to provide protection for people at risk of domestic abuse for up to three months and provide a period of safe breathing space within which to consider their longer-term living situation. Breach of a DAPO will be a criminal offence.

The Act also provides for the issuing of a Domestic Abuse Protection Notice (DAPN). This is an even more short-term precursor to a DAPO application and is designed to enable the police to require a suspected perpetrator to leave the home for a brief period until the DAPO application can be dealt with by the court.

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As you will be aware from previous updates provided to the Committee, the provisions in Part 1 of the Act are now considered by a wide range of justice partners to be unsuitable for implementation in their current form. Five meetings of a specialist working group were held between September 2025 and spring 2026, to consider which legislative and non-legislative changes might be needed to ensure that Domestic Abuse Protection Orders and Notices can be operationalised. That group completed a substantial programme of work, and the potential changes identified now need to be subjected to wider consultation and engagement, to inform the development of draft legislative proposals.

The types of issues considered by the group included:

- The need for the development of statutory guidance on DAPOs
- Availability of court time
- A potential power to pilot the model
- The potential for a power for British Transport Police to apply for a DAPO or a DAPN
- Amendments to the reporting period and requirements, including extending the reporting period from three to five years; and
- The implications of placing a duty on justice organisations to collect and share certain data.

There are also several key issues that will require further exploration and policy development as part of any targeted consultation process, including:

- the tight **timescales** involved from the issuing of the DAPN to the court hearing for the DAPO taking place. The key challenge in this respect is that while the current timescale creates significant difficulties in terms of operational capability and the ability of individuals to obtain legal representation, there remains a need to ensure that individuals' rights under the ECHR are respected.
- **piloting**: the majority of working group members agreed that the power to pilot would be a beneficial change to the legislation, but not all partners were aligned on this point in terms of the time and resource implications.
- **funding**: costs remain uncertain in the absence of a pilot approach, and in any event further financial modelling is required to understand potential costs of particular aspects of the model (e.g. the provision of legal advice to Police Scotland)
- **court time**: the approach to ensuring availability of court time is not agreed amongst partners and requires further discussion
- **seeking the views of a child:** the means of achieving this needs further consideration, and has also been raised by justice partners as a concern.

Officials are considering how best to manage further targeted consultation or engagement, given the range of complex issues and interests, and I expect advice from them in that regard in the coming weeks.

They are also considering how to ensure policy coherence in terms of advancing DAPOs whilst we also seek to deliver the related PFG 2026 commitment on protective orders. As a reminder, in PFG 2026 we made these two separate but related commitments:

- Commence legislation which will improve how courts consider protective orders and ensure protective orders imposed elsewhere in the UK can be enforced in Scotland; and

- Consult on implementing Domestic Abuse Protection Orders (DAPOs).

In relation to the first of these, and as the committee may be aware, new powers for courts when considering non-harassment orders took effect on 1 September 2026; and new powers to enforce in Scotland protective orders imposed elsewhere in the UK will take effect on 1 December 2026. We will remain cognisant of this while we develop a proposed approach to DAPOs.

The immediate next step is that we will convene a meeting of the Domestic Abuse Justice Partners group this autumn to discuss and advise on targeted engagement/consultation, and will continue to explore the appropriate legislative vehicle for this work.

This work takes place in the context of a very significant programme of activity to prevent, and robustly respond to, violence against women and girls, and will be informed by this activity, where there are relevant overlaps. Our aim as a government is to give the strongest possible message to victims, survivors and perpetrators that domestic abuse will not be tolerated in Scotland.

Providing for a system of Domestic Abuse Protection Orders and Notices which works effectively, and which has the support of all parts of the justice system, and their commitment in terms of the investment needed, will be a huge step forward. I look forward to further discussions with the committee on the detail of this model when the time is right.

I hope this update is helpful.

Yours sincerely,

KIRSTEN OSWALD

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