

Citizen Participation and Public Petitions Committee  
Wednesday 21 May 2025  
9th Meeting, 2025 (Session 6)

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

### Introduction

**Petitioner** Bernadette Foley

**Petition summary** Calling on 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.

**Webpage** <https://petitions.parliament.scot/petitions/PE2025>

1. [The Committee last considered this petition at its meeting on 26 June 2024.](#) At that meeting, the Committee agreed to write to the Minister for Victims and Community Safety.
2. The petition summary is included in **Annexe A** and the Official Report of the Committee's last consideration of this petition is at **Annexe B**.
3. The Committee has received new written submissions from the Minister for Victims and Community Safety and from the Petitioner, which are set out in **Annexe C**.
4. [Written submissions received prior to the Committee's last consideration can be found on the petition's webpage.](#)
5. [Further background information about this petition can be found in the SPICe briefing](#) for this petition.
6. [The Scottish Government gave its initial response to the petition on 1 June 2023.](#)
7. Every petition collects signatures while it remains under consideration. At the time of writing, 108 signatures have been received on this petition.

## **Action**

8. The Committee is invited to consider what action it wishes to take.

**Clerks to the Committee**  
**May 2025**

## **Annexe A: Summary of petition**

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

### **Petitioner**

Bernadette Foley

### **Date Lodged**

25 April 2023

### **Petition summary**

Calling on 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.

### **Background information**

My sister was abducted, beaten and her estranged husband attempted to kill her after threatening the same. He received a custodial sentence for offences including breach of bail, abduction, assault to injury, and breach of the peace, of which he served half. This was after the attempted murder charge was dropped without discussion with the victim. Following his release, he began harassing my sister under an assumed name and the police decided they could do nothing.

The perpetrator's family emptied the marital home of all furniture, fixtures and fittings, and again the police could do nothing to prevent this. Furthermore, my sister had to pay legal costs to divorce him and start over having left the home with only the clothes and possessions on her person.

My sister has now had to give up work due to anxiety, depression, PTSD and deterioration of physical health, and to date has received no benefits whatsoever. She was declined a community care grant and criminal injuries compensation.

## **Annexe B: Extract from Official Report of last consideration of PE2025 on 26 June 2024**

**The Convener:** Our next petition, PE2025, was lodged by Bernadette Foley. Forgive me, colleagues, but there is quite a long follow-up, given the amount of information that we have received.

The petition calls on the Scottish Parliament to urge the Scottish Government to improve the support that is available to victims of domestic violence who have been forced to flee the marital home by ensuring that access is available to legal aid for divorce proceedings where domestic violence is a contributing factor; that victims are financially compensated for the loss of the marital home, including the loss of personal possessions and furniture that were left in the property; and that victims are consulted before any changes are made to non-harassment orders.

We previously considered the petition on 6 September 2023, when we agreed to write to Scottish Women's Aid, the Scottish Women's Rights Centre, the Law Society of Scotland, the Scottish Law Commission and the Scottish Government. Members will have noted that we have received responses from all those organisations.

The Scottish Law Commission told us that, although its "Aspects of family law" project does not extend to divorce law or legal aid, it will consider whether and how survivors of domestic abuse might be able to obtain remedies against perpetrators, including for the loss of property. The commission is also reviewing the efficacy of non-harassment orders.

The Law Society of Scotland suggested that making legal aid automatically available to anyone who has made an allegation of domestic abuse could potentially open up the scheme to misuse. It also indicated its support for a victim being heard prior to any decision being taken to vary or revoke a non-harassment order, and it highlighted that that should happen automatically in a civil context, as the order would normally have been sought by the victim.

In its response, the Scottish Government noted that, in addition to an implementation board, an operational working group has been established to work through the detail of how the Domestic Abuse (Protection) (Scotland) Act 2021 could operate. It also noted that there are several challenges to be addressed in implementing part 1 of the act, which gives Police Scotland powers to issue a domestic abuse protection notice and to apply to civil courts for a domestic abuse protection order.

In their responses, the Scottish Women's Rights Centre and Scottish Women's Aid indicate their support for the aims of the petition and draw our attention to the increase in the number of victims who self-represent due to the lack of available legal aid. Members may recall from previous consideration of petitions related to legal aid that the Government indicated its intention to introduce a legal aid reform bill during this parliamentary session, but we have not yet seen such a bill.

Do members have any suggestions for action?

**David Torrance:** I wonder whether we could write to the Minister for Victims and Community Safety to highlight the evidence that the committee has received; to seek an update on the work of the implementation board and the operational working

group to progress the implementation of part 1 of the 2021 act, including information on what challenges are still to be resolved before implementation can proceed; to ask what action has been taken to ensure that victims have the opportunity to be heard before non-harassment orders are varied or revoked; and to ask whether the Scottish Government still intends to introduce a legal aid reform bill during the current parliamentary session.

**The Convener:** We should make that last point in particular, because the Parliament is running out of time to progress any such bill. Are colleagues content with that suggested course of action?

**Members** *indicated agreement.*

## **Annexe C: Written submissions**

### **Minister for Victims and Community Safety written submission, 29 July 2024**

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

Thank you for your letter of 4 July and for highlighting the evidence you have received from a number of organisations. In your letter you requested an update on a number of areas which I will look to address as follows.

You have asked what action is being taken to ensure victims have the opportunity to be heard before Non-Harassment Orders are varied or revoked.

As set out in previous correspondence, where a Non-Harassment Order (NHO) is made by a civil court following an application by the person at risk, they will automatically be notified of any application by revoke or vary the NHO and will be entitled to oppose the application in court.

The rules that apply when an NHO is made against an offender convicted of an offence involving misconduct towards a person by a criminal court when sentencing that offender are set out in the Act of Adjournment (Criminal Procedure Rules Amendment No. 2) (Non-Harassment order) 1997.

These require that where the convicted person makes an application to the court to vary or revoke an NHO, they must serve a copy of the application upon "any person, other than the offender, who is named in the order." This should ensure that where an NHO is made by a criminal court to protect the victim of an offence, the victim will be made aware of any application by the offender to vary or revoke the order.

However, it is the prosecutor, rather than the victim of the offence, who must decide whether to oppose the application to revoke or vary the order. COPFS have a policy of always proactively seeking the views of the victim (in some cases this may be via a 3rd party for a child or a domestic abuse victim with an advocacy worker where they have nominated the support/advocacy worker to engage with COPFS on their behalf).

COPFS note that while they have a policy of giving weight to the victim's view when making an application for an NHO, or in setting out its position to the court on any application to vary or revoke an NHO, they do not expressly impart the victim's view in open court. This is because, in many cases, doing so presents a significant potential safety risk to the victim and expressly conveying their view to the court leaves it open to the accused to carry out further abuse through the court process.

There is a risk that any move away from the current approach to require the court to focus more on the victim's view would put the victim at greater risk and in particular would create opportunities for perpetrators to use the court process to further abuse the victim.

With regard to the work to progress the implementation of Part 1 of the Domestic Abuse (Protection) (Scotland) Act 2021, my officials continue to engage with Justice

partners and others, including colleagues in other parts of the UK, to determine what legislative changes will be required to enable us to move forward. That work continues to take some time and has inevitably highlighted some new challenges that need to be considered, but I will look to provide the Committee with a more detailed update over the coming months.

The Vision for Justice in Scotland: Three Year Delivery Plan contains an action to engage with key stakeholders to inform and shape future legislative proposals to reform the legal aid system. Scottish Government officials intend to commence this engagement in early course. Working with stakeholders, including victim support organisations, will allow opportunities for consideration of practical improvements for users of legal aid, building upon the Martin Evans Review recommendations and subsequent public consultation.

Yours sincerely,

**SIOBHIAN BROWN**

### **Petitioner written submission, 30 July 2024**

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

Thank you for sharing the response from the Minister for Victims and Community Safety received for the above petition.

I welcome the news that there is still work being done with regards to new legislation and hope this is brought into practice ASAP.

I also understand the reasons behind current practice regarding Non-Harassment Order's, i.e. those which are implemented through criminal courts. It would be helpful if victims knew how to request an extension to such orders.

Apologies if my next point has no place in this petition. It dawned on me whilst reviewing the responses that my original application included a question on why charges are reduced/dropped without consultation with the victim. For example, my sister's aggressor was originally investigated for attempted murder as well as his other offences; but he was only charged with abduction, assault to injury, breach of the peace and breach of bail conditions (he had already been arrested and bailed for threatening her life).

Thanks once again for considering our concerns and working to ensure the safety of my sister and others.