



Women's Regional Consortium Consultation Briefing: Department of Justice's 'Domestic Abuse Offence and Domestic Violence Disclosure Scheme – a Consultation'

1. Synopsis

This paper outlines an ongoing consultation exercise from the Department of Justice (hereafter, DOJ) on domestic violence and abuse, which considers potential enhancements to victim protection and crime prevention in this area of offending.¹

The **overall purpose** of the consultation is to garner stakeholder views on whether, *for the sake of enhanced protection and prevention* in the jurisdiction, there is a need for government to:

- change existing law to **establish a 'specific offence'**² in relation to **patterned non-violent abusive behaviour** in 'intimate relationships',³ i.e. 'coercive and controlling' behaviours such as threats, humiliation and intimidation;⁴ and,
- introduce some kind of **domestic violence disclosure scheme**, i.e. a mechanism providing for a given individual's 'right to ask' and/or 'right to know' about a partner's history of violence.⁵

2. Background

The consultation forms part of wider ongoing government efforts also aimed at enhancing victim protection and crime prevention in this area. Other associated initiatives to have emerged recently include the development of a new draft domestic and sexual violence/abuse strategy, and additional protective measures made under

¹ Department of Justice, 'Domestic abuse offence and domestic violence disclosure scheme – a consultation', DOJ, Belfast: 2016.

² Ibid., p.2. The intended content of the offence reflects the proposed definition of domestic abuse in the executive's draft strategy on domestic and sexual violence/abuse.

³ The consultation document depicts an 'intimate' relationship as that which exists 'between two people which may be reasonably characterised as being physically and emotionally intimate'. Ibid., p.1.

⁴ Ibid., p.2. The document characterises 'controlling behaviour' as 'a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour'. By contrast, 'coercive behaviour' is characterised as 'an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten a victim'.

⁵ Ibid., p.6ff.

the Justice Act (Northern Ireland) 2015. The former includes a revised definition of domestic violence and abuse, intended to acknowledge that domestic abuse ‘is not just about violence’ but can also take non-violent forms, i.e. ‘coercive and controlling’ behaviours.⁶

3. What is being asked?

(i) New domestic abuse offence

Under existing law in the Northern Ireland case, there is no criminal offence specifically covering non-violent abusive (i.e. ‘coercive and controlling’) behaviours in ‘intimate relationships’.⁷ The consultation document consequently asks whether such an offence should be introduced; and, whether victim protection could potentially be enhanced by same.

(ii) Disclosure scheme

The document also asks whether a domestic violence disclosure scheme is required to improve victim protection and crime prevention; and, if so, what form it should take. Four options are consequently presented, as follows.

Option 1: Disclosure under current arrangements

Since this option is already in place, government is, in effect, asking whether current disclosure arrangements are adequate and should remain unchanged. At present, the Police Service of Northern Ireland (hereafter, PSNI) may disclose information to third parties on a given individual’s violent past, in circumstances where there is an apparent ‘pressing need’ to prevent further crime.⁸

Option 2: A ‘right to ask’ national disclosure scheme

This second option would require the enhancement of current arrangements, involving, broadly, the introduction of a *formal* system of disclosure based on an affected party’s ‘right to ask’ the PSNI for information about a partner’s violent history.⁹ A multi-agency ‘expert’ panel would ultimately then decide on same.

⁶ Ibid.

⁷ Ibid., p.4.

⁸ Ibid., p.7.

⁹ Ibid., p.8.

Option 3: A ‘right to know’ national disclosure scheme

This option would also require the enhancement of current arrangements through the introduction of a disclosure system based around an individual’s ‘right to know’ about the violent history of a partner. In this scenario, under specific circumstances, the PSNI would be charged with ‘*proactively*’ sharing information about a given individual’s violent history to a multi-agency expert panel.¹⁰ As with option 2, the panel would ultimately then decide upon disclosure.

Option 4: A ‘right to ask’ and a ‘right to know’ national disclosure scheme

This model - as already introduced in England and Wales - would, in effect, combine elements of both options 2 and 3.¹¹

(iii) Scope of disclosure

The document also invites views on setting limits on the nature and extent of any prospective disclosure model; for example, as to whether information should be disclosed to persons other than partners, such as family members; and, whether all history of violence should be disclosed, as opposed to that pertaining to domestic violence only.

(iv) Projected impact

Finally, the document asks for consideration of whether the introduction of a new offence and disclosure scheme could potentially motivate victims to report their abuse and perpetrators to ‘rethink their behaviour’.¹²

4. Next steps

(i) The closing date for this consultation is 29 April 2016.

(ii) Focus groups

In order to garner the views of women in rural and disadvantaged areas on the subject at hand, it is planned that focus groups will be held by consortium partners

¹⁰ Ibid., p.9.

¹¹ Ibid., p.10.

¹² Ibid., p.3.

by **18 March**. The **deadline** for return of any associated focus group notes to WSN is **25 March**.

(iii) Suggested **focus group questions** are set out below in Table 1.

Table 1: Focus group questions

Overview: *DOJ is consulting on the prospect of a new domestic abuse offence for non-violent behaviour and a new domestic violence disclosure scheme.*

Question 1 What are the specific domestic violence and abuse issues affecting women in rural and disadvantaged areas of Northern Ireland?

Question 2 What impact can experiences of domestic violence and abuse potentially have on individuals and their wider families?

Question 3 Do you think government does enough to protect victims of domestic violence and abuse and to prevent further offending? If not, what more could/should be done to help tackle domestic violence and abuse?

Question 4 Do you think the law should be changed to make non-violent abusive behaviour (such as threats and humiliation) in 'intimate relationships' a **specific criminal offence**? If so or if not, why?

Question 5 Do you think a **formal mechanism** should be created to give individuals the '**right to ask**' the PSNI for information about their partners' violent history? If so or if not, why?

Question 6 Should government also introduce a '**right to know**' mechanism, meaning that the PSNI would '*proactively*' share information about individuals' history of violence? If so or if not, why?

Question 7 Do you think potential limits should be placed on disclosure and, if so, why, for example, should disclosure:

- cover *all* violent behaviour or only that involving domestic violence;
- cover convictions only or also 'intelligence'; and,
- be made to partners only or to both partners *and* third parties, such as family members?

(iv) A **draft version** of the consultation response will be sent in due course for consideration by consortium members.

(v) The **full consultation** document is available to download on DOJ's website:

<https://www.dojni.gov.uk/consultations/domestic-abuse-offence-and-domestic-violence-disclosure-scheme>