



Consortium for the Regional Support for Women in Disadvantaged and Rural Areas

Response to: Domestic Abuse Offence and Domestic Violence Disclosure Scheme – a Consultation

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Women's Regional Consortium: Working to Support Women in Rural Communities and Disadvantaged Urban Areas

1. Introduction

1.1 This response has been undertaken collaboratively by the members of the Consortium for the Regional Support for Women in Disadvantaged and Rural Areas, which is funded by the Department for Social Development in Northern Ireland and the Department of Agriculture and Rural Development in Northern Ireland.

1.2 The Women's Regional Consortium consists of seven established women's sector organisations that are committed to working in partnership with each other, government, statutory organisations and women's organisations, centres and groups working in disadvantaged and rural areas, to ensure that organisations working for women are given the best possible support in the work they do in tackling disadvantage and social exclusion.¹ The seven groups are as follows:

- Training for Women Network (TWN) – Project Lead
- Women's Resource and Development Agency (WRDA)
- Women's Support Network (WSN)
- Northern Ireland's Rural Women's Network (NIRWN)
- Women's TEC
- Women's Centre Derry (WCD)
- Foyle Women's Information Network (FWIN)

1.3 The Consortium is the established link and strategic partner between government and statutory agencies and women in disadvantaged and rural areas, including all groups, centres and organisations delivering essential frontline services, advice and support. The Consortium ensures that there is a continuous two way flow of information between government and the sector. It further ensures that organisations/centres and groups are made aware of

¹ Sections 1.2-1.3 represent the official description of the Consortium's work, as agreed and authored by its seven partner organisations.

consultations, government planning and policy implementation. In turn, the Consortium ascertains the views, needs and aspirations of women in disadvantaged and rural areas and takes these views forward to influence policy development and future government planning, which can ultimately result in the empowerment of local women in disadvantaged and rurally isolated communities.

1.4 This response is informed by women’s views and perspectives articulated during focus groups organised by WSN, FWIN, Women’s Centre Derry, Falls’ Women’s Centre and Greenway Women’s Centre between March and April 2016. Appendix 1 provides further detail on this engagement.

2. General comments

The Women’s Regional Consortium appreciates the opportunity to respond to the Department of Justice’s ‘Domestic abuse offence and domestic violence disclosure scheme – a consultation’.²

Over recent decades, with little exception, cyclical statistics from the criminal justice sector have continued to characterise ‘domestic abuse’ in the Northern Ireland case as both persistent and escalating.³ And, of course, women remain ‘overwhelmingly the majority of the victims of [such] violence’.⁴

The cumulative adverse impact that such intimate partner violence and abuse can have at both the level of the individual and wider family will, of course, vary from case to case. But, as is widely established in the literature, that impact may be variously characterised as potentially multi-dimensional (inter

² Department of Justice, ‘Domestic abuse offence and domestic violence disclosure scheme – a consultation’, DOJ, Belfast: 2016.

³ According to police statistics, domestic abuse incidents in the jurisdiction ‘have increased year on year since 2004/05’, with just 2 exceptions; 28,189 incidents were recorded for the period October 2014 to September 2015, which is the second highest level recorded since 2004/05; while in respect of domestic abuse crimes, the 2014-15 figure of 13,599 crimes was the highest level recorded since 2004/05. PSNI, ‘Domestic abuse incidents and crimes recorded by the police in Northern Ireland: quarterly update to 30 September 2015’, PSNI, Belfast, 2015.

⁴ NIWEP, ‘An inquiry into the position of women in Northern Ireland since the peace agreement summary report’, NIWEP, Belfast, 2015.

alia, at the level of the physical, psychological, emotional and financial), intergenerational and, at times, long-term.⁵ For example, research suggests that there is a 'direct link' between women's experiences of domestic violence and 'heightened rates' of depression and self-harm;⁶ that exposure to domestic violence can 'significantly' impact the health and developmental well-being of children and young people,⁷ potentially constraining later life outcomes; and, that these particular effects may, in turn, be compounded by interaction with others, such as the detrimental impact of domestic violence on economic well-being at the level of the individual and wider family.⁸

From this perspective, we welcome this consultation exercise as part of wider Executive intent and efforts to remedially intervene in the criminal justice sector on the question of domestic and sexual violence and abuse. Yet, we note with concern that since (a) unfair cultural-structural gender inequality that cuts across the private and public spheres remains a fundamental driver of intimate partner violence against women,⁹ then (b) meaningful realisation of this intent will intrinsically rely on the extent to which government can deliver substantive remedial change to such gender inequality across society at large. The principal reason for concern is this: as the recent review of the current gender equality strategy for the jurisdiction affirms, there has been a distinct failure of government to deliver such substantive change.¹⁰

The point here is consequently this: government consideration of the options under review - for improved victim protection and crime prevention - should be

⁵ See, for example, C. Humphreys and R. Thiara, 'Mental health and domestic violence: I call it symptoms of abuse', *British Journal of Social Work*, Volume 33, Issue 2, pp. 209-226; also, S. Holt et al., 'The impact of exposure to domestic violence on children and young people: a review of the literature', *Child Abuse & Neglect*, 32, 2008, pp.797-810; and, K. Hegarty, 'Domestic violence: the hidden epidemic associated with mental illness', *The British Journal of Psychiatry*, Feb. 2011, 198 (3), pp.169-170.

⁶ Humphreys and Thiara, op. cit., p.209.

⁷ Holt et al., op. cit., p.797.

⁸ On this, see, for example, R. Tolman and D. Rosen, 'Domestic Violence in the lives of women receiving welfare mental health, substance dependence, and economic well-being', *Violence Against Women*, February 2001, vol. 7, no. 2, pp.141-158.

⁹ WHO, 'Violence prevention the evidence promoting gender equality to prevent violence against women', WHO: Geneva, 2009.

¹⁰ It was only 'judged' that, across all departments, 37 out of the 126 outcomes or 'action points' in the applicable 2008-11 action plans had been achieved, equating to 29 per cent. OFMDFM, 'Gender equality strategy 2006-2016 review', OFMDFM/NISRA, Belfast, 2013.

explicitly conducted within the context of wider cross-departmental debate on remedying unfair cultural-structural gender inequality across society at large.

That debate should crucially include consideration of a number of contextual factors that could potentially threaten the realisation of improved outcomes on this criminal justice front: first, as commentators rightly observe, there is a need for government to ensure that its approach to the issues at hand takes proper account of the relationship between the legacy of the conflict in the jurisdiction and gender-based violence;¹¹ second, as further observed, in order to take such account, government should ensure its approach is properly developed within a rights-based framework, fully reflective of all pertinent domestic, regional and international human rights obligations;¹² third, there is also a need for government to ensure that it properly supports and resources any procedural criminal justice change introduced subsequent to the consultation (to include proper training for professionals in victim support interfaces as well as sufficient awareness-raising delivery across the wider public sphere); finally, in pursuit of robust evidence-based policymaking on the subject, there is a need for government to address significant research deficits that pertain.

Participants in the focus group engagement articulated these concerns and raised associated misgivings, as will be shown in the remainder of the paper.

3. Specific comments

Legacy of the conflict and gender-based violence

3.1 Research on the Northern Ireland case affirms a distinct relationship between the context and legacy of the ethno-national conflict that emerged in the jurisdiction and the nature, prevalence and non-reporting of intimate partner violence.¹³ For example, by engendering, inter alia, fear and intimidation at the level of the individual, the family, the community and

¹¹ NIWEP, op. cit.

¹² M. McWilliams and F. Ní Aoláin, 'Advancing gender equality in Northern Ireland: addressing domestic violence and human rights protections for women', KESS, Ulster University, Belfast, 2014.

¹³ Ibid.; also, NIWEP, op. cit.

society at large, the conflict has been identified as having ‘masked the perpetration of domestic and sexual violence’, resulting in the ‘silencing of women’ as victims of such violence.¹⁴ Discussants in the engagement events informing this response anecdotally evidenced this relationship, citing cases of conflict-associated gendered violence and non-reporting of such violence.

The document, however, makes no explicit reference to the relationship between the context and legacy of the conflict in the jurisdiction and intimate partner violence. Yet, as it considers the question of a domestic abuse offence and a domestic violence disclosure scheme, it is imperative that the Executive take due account of the wider and ongoing implications of the relationship at hand for both victim protection and crime prevention in this area. In order to take such account, government should ensure its approach to this debate remains properly anchored within a rights-based framework, fully reflective of all pertinent domestic, regional and international human rights obligations.¹⁵ Moreover, as we shall shortly see in discussion of the question of research deficits in this debate, in promotion of more robust evidence based policymaking, there is also a need for government to help address shortfalls that pertain in respect of the understanding and explanation of this relationship in the literature.

Recommendation

The Executive should ensure that its approach to the subject under review is properly situated with a rights based framework, taking due account of the relationship between the legacy of the conflict in the jurisdiction and gendered violence.¹⁶

Gender inequality and gendered violence

3.2 The relationship between gender and intimate partner violence is multilayered and complex. Research, however, suggests that cultural-structural gender inequality that cuts across the public-private sphere - as

¹⁴ NIWEP, op. cit.

¹⁵ McWilliams and Ní Aoláin, op. cit.

¹⁶ Ibid.

evident in gendered differentials between men and women in, inter alia, power, status, financial independence and the division of labour – can be a major factor underlying the manifestation and non-reporting of such violence: *‘gender inequalities increase the risk of violence by men against women and inhibit the ability of those affected to seek protection’*.¹⁷ In pursuit of improved social justice outcomes on this front, therefore, it is imperative that the Executive’s approach to consideration of the proposals under review is informed and underpinned by robust contextualised analysis of this relationship in the Northern Ireland case.

Discussants in the engagement events informing this response anecdotally evidenced this relationship, citing instances of how controlling and coercive behaviour and violence in intimate partner relationships may be associated with the implications of gendered power, status and financial differentials within households.

The point here is this: government consideration of the options under review - for improved victim protection and crime prevention - should be explicitly conducted within the context of wider cross-departmental debate on substantively remedying unfair cultural-structural gender inequality across society at large. Yet as the recent review of the current gender equality strategy indicated - with over 70 per cent of associated cross-departmental outcomes categorised as not achieved - the corrective impact of government efforts to address this gendered dilemma has hitherto proven distinctly limited.¹⁸

Recommendation

Government should ensure that its consideration of the options under review is conducted within the context of wider cross-departmental debate on substantively remedying unfair cultural-structural gender inequality across society at large, given the research-evidenced causal positioning of such inequality as a fundamental driver of intimate partner violence and abuse.

¹⁷ WHO, op. cit., p.1.

¹⁸ Supra note 10 pertains.

Intervention: school, community and media

3.3 Discussants expressed profound concern at anecdotally cited linkages between the exposure of children and young people to domestic violence and the incidence of intergenerational violence and abuse. As one discussant put it: ‘children [can be] led to believe [violent and abusive] behaviour is normal: they experience domestic violence/abuse [and] may believe this is acceptable behaviour and become offenders [themselves] in the future’ (Women’s Centre Derry). Research provides some evidence in support of this claim-making. For example, ‘there is some support for the hypothesis that children from violent families of origin carry violent and violence-tolerant roles to their adult intimate relationships’.¹⁹

From this perspective, discussants called for substantive remedial government action in respect of intervention and awareness-raising, not only at the level of the school, but also the community and the media, to help address the attitudinal dimension of the relationship between gender inequality and domestic violence, i.e., the way in which gendered stereotypes and discriminatory attitudes can help produce, reproduce and reinforce gendered inequalities associable with intimate partner violence, precisely by ‘giv[ing] men power over women’.²⁰

Research notes the potential of such interventions to help effect positive change to this attitudinal dimension, precisely by dialogically engaging men and women and boys and girls in normative debate aimed at critically evaluating and challenging the gendered norms that underpin such stereotypes.²¹

¹⁹ K Richards, ‘Children’s exposure to domestic violence in Australia’, *Trends and Issues in Crime and Criminal Justice*, No. 419, 2011, pp.1-7, p.3; quoting J. Edleson, ‘Children’s witnessing of adult domestic violence’, *Journal of Interpersonal Violence*, 14(8): 839–870, p. 861.

²⁰ WHO, *op. cit.*, p.1.

²¹ *Loc. cit.*

Recommendation

As government progresses policy on the subject at hand, the Consortium recommends that it put in place meaningful interventionist measures at the level of the school, the community and the media, aimed at promoting gender equality and preventing gendered violence, precisely by challenging gendered stereotypes and attitudes that, by reinforcing gendered differentials in power, are associable with intimate partner violence and abuse.²²

Addressing research deficits

3.4 As commentators rightly observe, in recent decades in the jurisdiction, 'there have been many advances in policy-making on domestic and sexual violence'.²³ Nevertheless, as available research and statistical information continue to suggest, intimate partner abuse in the jurisdiction may be characterised as not only persistent, but also escalating.²⁴ On this view, Executive policies and legislation to date have proven inherently insufficient to remedially address domestic abuse in substantive ways.

Of course, the actual nature, extent and impact of domestic violence and abuse in the Northern Ireland case, as beyond, are not fully established: neither fully known nor fully explained/understood, not least of all because: 'the relationship between gender and violence is complex',²⁵ significant gaps exist in available research on the subject; and, non-reporting issues persist. For example, research deficits pertain in respect of the experience of victims of domestic violence with severe mental illness,²⁶ as well as male (heterosexual), lesbian, gay, bi-sexual, transgender and ethnic minority experience of domestic and sexual violence.²⁷

²² Loc. cit.

²³ McWilliams and Ní Aoláin, op. cit., p.1

²⁴ Supra note 3 pertains.

²⁵ WHO, op. cit., p.1.

²⁶ Hegarty, op. cit.

²⁷ M. Hester, et al., 'Exploring the service and support needs of male, lesbian, gay, bi-sexual and transgendered and black and other minority ethnic victims of domestic and sexual violence', University of Bristol, Bristol: 2012.

In the Northern Ireland case, this mental health research deficit is compounded by an associated evidence deficit on the relationship between mental health and the legacy of the conflict on domestic and sexual violence.²⁸ Commentators have underlined the importance of addressing the latter: ‘the conflict masked the perpetration of domestic and sexual violence... [yet] *there is no research on the extent of this sexual violence and so we don’t know how to respond*’.²⁹

For obvious reasons, any such deficit in knowledge and understanding renders problematic the Executive’s ambition to develop a properly informed, evidence-based approach to overall policymaking in this particular area of criminal justice, including its approach to the specific dimension of that area under review.

Recommendation

The Consortium recommends that the Executive commit to help addressing the existing knowledge deficit on the nature, extent and impact of the experience of domestic violence and abuse in the jurisdiction, with a view to ensuring that future policy development in this area is properly informed by a robust, continuously maintained, clear and appropriately disaggregated evidence base.

Domestic violence disclosure scheme

3.5 Discussants informing this response deemed the question of disclosure ‘complicated’. For example, some deemed it complicated in cases where both partners had histories of intimate partner violence, while others deemed it complicated in terms of the requirement to delineate the ‘appropriate’ scope of disclosure, and to define the point in a new relationship at which a partner should have the entitlement to make an application for disclosure; yet still other deemed it complicated in terms of the requirement to determine whether disclosure to third parties might be in order.

²⁸ NIWEP, op. cit

²⁹ Ibid.

Against this background, while there was broad support for the possibility of government introducing a domestic violence disclosure scheme, differing views emerged as to the preferred parameters of any such measure. While some discussants supported full disclosure of 'known intelligence' on a given partner to a new partner, as well as disclosure of his or her history of convictions, others supported the latter only.

That said, the inherent limitations of the latter as a potential device in promoting the safety of victims in the jurisdiction were noted. For example, the point was made that the potential effectiveness of any such device could obviously be undermined by the following reality: a history of violence might not necessarily lead to a history of conviction given persistent impediments to successful prosecution outcomes in the jurisdiction, such as notable victim failure to give evidence. Research provides some indication as to the nature of this dilemma. For example, in a single week in December 2014, over a third of cases at Northern Ireland's only specialised domestic violence court 'collapsed' because of such failure.³⁰

Despite this divergence, there was some agreement on the proposition that whilst the question of disclosure should be explicitly approached from within a rights-based framework, at the same time, related data protection considerations should not be allowed to compromise victim protection, on the basis that crime prevention can intrinsically rely on the sharing of information about risk factors among all affected parties.³¹

Recommendation

In taking forward this consultation exercise, the Executive should ensure that while the question of disclosure is approached from within a rights-based framework, data protection considerations should not be allowed to compromise victim protection.

³⁰ D. McAleese, 'Persuading the victims of domestic abuse to take a stand for justice', *Belfast Telegraph*, 11 December 2014.

³¹ McWilliams and Ní Aoláin, op. cit.

Domestic abuse offence

3.6 Research affirms that ‘the psychological impact of domestic violence ... can be more debilitating than physical injuries’.³² Participants across all stages of engagement expressly underlined this point, and from this perspective, broadly, though cautiously, supported the notion of introducing a domestic abuse criminal offence for coercive and controlling behaviour.

The principal reason for that caution was this: it was generally held that, in contrast to domestic violence, taking forward prosecutions for such an offence may prove inherently problematic. For example, as the document rightly notes, coercive and controlling behaviour ‘can be more difficult to identify’ than domestic violence.³³ For this reason, participants expressed reservations about the potential of professionals in the wider criminal justice sector to properly establish evidence thresholds sufficient for prosecution in respect of the proposed offence. Moreover, misgivings were also expressed about the potential of women victims themselves to (a) actually identify such behaviour as abuse in the first place; and, then (b) ‘feel confident’ that any subsequent reporting of such crime would be ‘taken seriously’ by all pertinent sections of the sector, especially the police (Falls’ Women’s Centre).

Accordingly, it was universally posited that any introduction of such an offence in the jurisdiction should be properly supported and resourced infrastructurally across all sections of the wider criminal justice sector and all implicated sections of the health and social welfare sectors, through delivery of appropriate professional training and capacity. On the specific question of victim support, discussants also called for further consideration of options at the level of community.

At this juncture, discussants anecdotally pointed to problems with victims accessing justice for domestic violence offences under current arrangements in respect of, inter alia, a reported lack of appropriate legal aid support and

³² G. Robertiello, ‘Common mental health correlates of domestic violence’, *Brief Treatment and Crisis Intervention*, 2006, 6(2), pp.111-121, p.111.

³³ DOJ, op. cit.

the reported 'prohibitive' cost and inefficacy of non-molestation orders. Research on the Northern Ireland case provides some supporting evidence for such claim-making. For example, in one particular study, 47 per cent of respondents identified that a 'breach' of non-molestation orders 'was not taken seriously' by the criminal justice sector, while 38 per cent held that the legal system was 'unable to compel the perpetrator to cooperate and comply with the legal intervention or process'.³⁴

From this perspective, participants appealed for suitably corrective interventionist action to deal with currently existing difficulties in victim protection, crime prevention and access to justice in the area under review, to include: improvements in police responses and evidence gathering to assist successful prosecution; greater specialist support for victims and their children; and, enhanced risk assessments and safety planning. A case was also subsequently made for more dedicated intervention and resource allocation in respect of appropriate mechanisms to address male (heterosexual), lesbian, gay, bi-sexual, transgender and ethnic minority experiences of domestic and sexual violence.³⁵

Recommendation

In taking forward any of the proposals under review, the Executive should ensure that proper resourcing and training measures are put in place - across the wider criminal justice sector and other implicated sectors, most notably, the health and social welfare sectors, but also at the level of community - to take proper account of the implications of any subsequent change for victim protection and crime prevention. At the same time, as research suggests,³⁶ remedial action is also required to address reported problems in respect of access to justice in cases of intimate partner violence under current arrangements.

³⁴ McWilliams and Ní Aoláin, *op. cit.*, p.3; citing A. McMurray, 'Women's experience of violence: mapping experiences and responses, a pilot study', WCRP, Belfast, 2009.

³⁵ On this, see Hester, *et al.*, *op. cit.*

³⁶ *Loc. cit.*

4. Conclusion

A broad concluding consensus was reached among respondents who informed this response, according to which '[the Executive] doesn't do enough to protect victims of domestic abuse and violence' (FWIN focus group). This consultation exercise potentially presents a significant opportunity for government to 'do more' remedially on this front in more meaningful and effective ways. For reasons of social justice, it is clearly imperative that any development and implementation of the proposals under review should be conducted in such a way as to properly capture and remedially address the complexity of the interacting equality and rights issues at stake in this debate, delivering substantive interventions to take due account of the gendered dilemma at hand.

Appendix 1

Summary: qualitative research engagement detail

Focus groups: facilitation, locations and dates

- WSN-facilitated focus group at Falls' Women's Centre, Belfast, 14 March 2016.
- WSN-facilitated focus group at Greenway Women's Centre, Belfast, 16 March 2016.
- Women's Centre Derry-facilitated focus group at its Derry premises, 22 March 2016.
- FWIN-facilitated focus group at its Derry premises, 7 April 2016.

Participants' profile summary

Overall composition: included some venue staff, board members, volunteers, service users; and, more generally, women living and working in different disadvantaged and rural localities; including, parents, young people and older people.

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