



Northern Ireland
Assembly

Committee for Justice

OFFICIAL REPORT (Hansard)

Domestic Abuse and Family Proceedings Bill:
Victim Support NI

18 June 2020

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Ms Linda Dillon (Deputy Chairperson)
Mr Doug Beattie
Ms Sinéad Bradley
Ms Jemma Dolan
Mr Gordon Dunne
Mr Paul Frew
Miss Rachel Woods

Witnesses:

Ms Geraldine Hanna Victim Support NI

The Chairperson (Mr Givan): Joining us through the broadcast facility is Geraldine Hanna, who is chief executive of Victim Support NI. I invite Geraldine to give an overview of the submission, and then we will move to questions from members. In order to get through all the business and keep our focus on the legislative provisions and the written submission, I ask members to ask specific questions and avoid general commentary.

Geraldine, I hand over to you. You are welcome to the Justice Committee. Thank you for your written submission.

Ms Geraldine Hanna (Victim Support NI): I begin by thanking the Committee for the invitation to speak to it today.

Victim Support NI is the lead charity in Northern Ireland providing support to victims and witnesses of all crime types. We are funded primarily by the Department of Justice and named in the Justice Act (Northern Ireland) 2015 as a prescribed body to which criminal justice agencies pass victim contact details for the purposes of providing services or offering information on other services. In 2019-2020, we received over 48,000 victim referrals. One in five of those related to domestic abuse.

In the interest of saving time, I do not intend to provide an overview of the range of our services, which are outlined in our submission. However, I am happy to answer any questions regarding our work and extend an open invitation to any member who wishes to make a socially distant visit to any of our services.

Victim Support NI is delighted to see the long-awaited Bill progress through the Assembly. We commend former Justice Minister Sugden and departmental officials on their work in progressing the

Bill. We appreciate Minister Long and the Justice Committee's prioritisation of the Bill on the return of the Assembly.

The Bill has had a longer trajectory than most. Initially earmarked for introduction to the Assembly in February 2017, it was shelved at the time of the suspension of the Executive. In the intervening years, the shortcomings of our legal system in tackling domestic abuse have been exposed on the international stage by the examination of the UK by the UN Committee on the Elimination of Discrimination against Women (CEDAW).

Amidst a laundry list of recommendations that pointedly reference Northern Ireland, CEDAW urged that measures be adopted to protect women from gender-based violence. The Domestic Abuse and Family Proceedings Bill is a significant step towards meeting that obligation. Victims have waited far too long for the law to reflect the reality of the abuse that they have suffered. Whilst the Bill is not a panacea for all legal gaps and shortcomings relating to domestic abuse, we are reassured by the Minister's commitment to introduce stalking legislation and a miscellaneous Bill later in the year, which should address those. It is for that reason that we plead for this legislation to be progressed as swiftly as possible.

I trust that members have had an opportunity to read our written submission. Before taking questions on the specifics, I thought that it might be helpful to outline the context and considerations that informed our response to the Committee.

Domestic abuse can affect all of us, regardless of gender identity, age, class or sexual orientation. Whilst this is a gendered crime that disproportionately affects heterosexual women, they are not the only victims. We therefore welcome the fact that this primary legislation will protect all members of our society. We also welcome the recognition that domestic abuse is not limited to current intimate partners but includes ex-partners, individuals who no longer live together and familial abuse.

Domestic abuse is not solely for the Department of Justice to resolve. It is a societal issue, which means that it is the responsibility of all Departments. Whilst the Bill is focused primarily on the criminal justice system, we urge the Committee to avail itself of any mechanism open to it to address the issues that we have highlighted as regards housing, protection of migrants, education and the extension of special measures to civil and family courts.

Our submission highlights the gap in advocacy provision for victims of domestic violence. Whilst Victim Support's independent sexual violence advocacy service (ISVAS) currently provides that advocacy support to victims of sexual violence in a domestic setting, a number of Criminal Justice Inspection reports have confirmed the gaps that exist for victims of domestic abuse.

We welcome the commitment of the Departments of Justice and Health in their seven-year joint strategy to develop a streamlined advocacy service available for domestic and sexual violence victims. We believe that the proposed model will address some of the gaps identified. However, we would like to see all relevant Departments' active support in the resourcing of such services, which, if approached holistically, would be best placed to meet the broad and complex needs of victims of domestic and sexual abuse.

Our almost 40 years' experience of working alongside the justice system has evidenced the fact that our laws are only as good as their practical implementation. We need to ensure that the Bill is worded robustly to avoid any unintended consequences. We draw the Committee's attention to clause 8, where we support the intention to permit increased sentencing for those who deliberately target vulnerabilities such as youth. However, we seek to ensure that young perpetrators are not disproportionately punished by the law. Similarly, at clause 12, whilst we understand the need for a reasonableness defence, we would like the language to be strengthened to outline the particular circumstances in which that defence is permitted, as well as the inclusion of sufficient safeguards to prevent its spurious use of the defence, which could be inappropriately used to discourage victims from reporting or cause embarrassment and fear. The fact that it could be used to discredit victims in open court could have a chilling effect on future victims and their confidence in the system.

The Bill, to achieve its intended outcome, must be properly resourced and introduced alongside a suite of training and educational tools for criminal justice practitioners and the public. We believe that those elements are currently missing. An understanding of coercive control is needed not just for the investigation and prosecution of that crime but to increase awareness of the issue amongst victims, potential perpetrators and the public. We support the fact that the Bill is gender-neutral in order to

ensure that all victims are protected, but the associated training should have a gendered focus so that responders can recognise and know how to deal with abuse that happens through a gendered lens.

We note that clause 25 indicates that the Department of Justice "may" issue guidance. We would like the Committee to strengthen that wording to ensure that unambiguous guidance must be provided and that appropriate wording is included to ensure that that guidance is adhered to. That will not only aid training but help to ensure the application of the Bill as intended.

Finally, in thinking about the application of the Bill in practice and possible ways to monitor success against our intended outcomes, I draw the Committee's attention to our points on the consideration of a domestic abuse commissioner. On the face of it, that proposal may seem meritorious, given that England and Wales inaugurated their first commissioner in September 2019. However, the English Domestic Abuse Commissioner was introduced in a jurisdiction where a prominent commissioner for all victims of crime had existed for over 10 years. That is not the case in Northern Ireland. We have a commissioner for victims of the Troubles, but we do not yet have a dedicated commissioner with the remit to cover all crimes. That is why Victim Support NI has, for some time, been calling for the introduction of a victims' commissioner here. We believe that victims of crime, including victims of domestic abuse, would be best served by the establishment of an overarching victims' commissioner for Northern Ireland. That role would provide the most cost-effective and sustainable solution to meet the needs of all victims of all crime types. If such a role followed in the footsteps of the current Victims' Commissioner for England and Wales, Dame Vera Baird, domestic and sexual violence would no doubt feature prominently in their work, while ensuring that victims of other crimes were not left behind or left to feel less worthy.

Northern Ireland could review the purpose, cost and remit of such roles in other jurisdictions in order to design a role that meets our local needs. We firmly believe that, in order to gain the trust and confidence of victims, any role created must be demonstrably independent of government and have the resources and power to report and make recommendations, with statutory agencies being required by law to respond publicly to those issues.

I thank the Committee for the opportunity to give evidence. I am happy to take questions.

The Chairperson (Mr Givan): Thank you very much, Geraldine. I appreciate you taking us through that. I will go straight to questions. Clause 5 addresses the meaning of personal connection. In your submission, you express concern about how far "affinity" goes and what it covers, and you said that more clarity was needed. Will you elaborate on your concerns in respect of "affinity"?

Ms Hanna: Our concern links to the different permutations that can exist in today's family set-ups. We are interested in situations in which the perpetrator is not named in the list of those who fall under "affinity" but could be living in the household of the victim and be the person of power in the family set-up. We note that, if the victim is under 18, the situation could be covered by child protection laws. However, I am concerned that, if the victim is over 18, he or she will be missed out if an aunt or uncle, for example, has the power dynamic in the family set-up and lives under the same roof, almost with parent or grandparent status. We appreciate that you cannot capture every circumstance, and we do not want to risk diluting the Bill, but we wonder whether something could be included that references living together but not limited to spouses. I appreciate that that may broaden it out beyond familial relationships and, potentially, to people who share a house, but it is where a person has the power in the family. In some family set-ups, that person might not be the mother or father. A great-aunt could be the matriarch of the family and be the person exercising coercive control. That is the type of situation that we have concerns about.

The Chairperson (Mr Givan): I would like to pursue that with the Department to see whether we can look at it.

Clause 12 addresses defence on grounds of reasonableness. We heard evidence and concerns about that last week. I am interested in your suggestion for a pre-trial requirement to determine whether that defence could be used before it goes into open court. Will you elaborate on your thinking on that?

Ms Hanna: I know that you have heard from other witnesses about how the clause could be used spuriously. We are thinking about how it could be used to cause embarrassment or shame, particularly where there may be examples of mental ill health or addiction. Our concern relates to how it could be showcased in open court and, potentially, put victims off reporting. We appreciate that there needs to be sufficient evidence to demonstrate the reasonableness offence, but one safeguard that we

considered was that it be handled similarly to how we handle presexual history. The same potential issues arise with presexual history where it could be used spuriously by the defence. What is required is a closed hearing in front of a judge before the trial to determine whether such a history merited inclusion.

Whilst we appreciate that a reasonableness defence is needed to protect individuals in certain circumstances, the way to prevent it being used deliberately or maliciously to cause shame is to have that evidence heard in closed court so that it is not played out in front of a jury. The judge will make a decision based on the evidence and the burden of proof that is needed. The judge will decide whether that evidence can be used. There may be legal issues with that; I am not sure. The Committee will be able to take legal advice on such a suggestion, but that was, possibly, a way to have an additional safeguard against the inappropriate use of the reasonableness defence.

The Chairperson (Mr Givan): OK, thank you; that is helpful. I have a couple more questions. Some gaps are highlighted that are not in the Bill. You mentioned Operation Encompass and whether an amendment could be included relating to it. Can you elaborate on what Operation Encompass is?

Ms Hanna: As noted in my introductory remarks, domestic abuse is not solely a Justice issue; the Department of Education also plays a significant role. We welcome the fact that the impact of domestic abuse on children is recognised in the Bill. Operation Encompass aims to ensure that police and schools work together to share good practice and, significantly, to ensure that immediate support is available to children in the aftermath of an incident. In cases where an officer is called to a house the night before, the child's school will be notified before he or she arrives in school the next morning. That enables the trained teacher or the designated domestic abuse support worker in the school to be aware of what the child has gone through in the hours before arriving at school that day and to ensure that the appropriate support and care is put in place. That is a significant, positive step that we would love to see enacted in Northern Ireland.

The Chairperson (Mr Givan): We talked about things that, you said, you did not want included in the Bill for fear that they might cause delay. Those include issues around stalking and non-fatal strangulation and choking offences, as well as domestic abuse protection orders (DAPOs) and the domestic abuse protection notices (DAPNs). My question is this: if there were an opportunity for us to legislate on those issues without delaying the Bill — we have already accelerated our Committee scrutiny stage to get the Bill through as quickly as possible — and if we took evidence to allow us to table Committee amendments to cover some of those areas, would Victim Support welcome that?

Ms Hanna: Yes, most definitely. Our desire to wait for separate stalking legislation, for example, is rooted in the understanding that a stalking Bill will progress in this mandate. We understand that work on strangulation and choking offences is to be progressed by the Department, and we have been asked to work on that with them. We welcome that, but our fear through all of this is that, if we waited to have those matters in the Bill, would that stall it? If the Bill will not be stalled, we most definitely want them included in order to make it as robust as possible. When it comes to strangulation and choking in particular, research shows that victims of family violence who have been strangled are seven times more likely to suffer death than those who were abused but had not been strangled. That is a shocking statistic, and we would prefer that issue to be addressed as soon as possible.

Notwithstanding that, we need to emphasise the importance of education. Even if we do not manage to get everything into the Bill to ensure its swift passage, the education piece and the awareness piece are really important to ensure that issues around gender-based violence and the gendered lens of domestic abuse be included. Research on what I have just referenced on strangulation could be included in that training, because that is the type of thing that we need prosecutors, the police, the judiciary and the public to understand in order to deal appropriately with these cases, investigate them and manage the risk associated with them. In short, if there is a way to make the Bill more robust and include in it what we need it to include without delaying it, yes, we will be more than supportive of that.

The Chairperson (Mr Givan): Geraldine, thank you for answering those questions from me.

Ms Dillon: Thank you, Geraldine. The Chair has covered some of my questions, so I will not go over all of them. With clause 8, there is a fear that, where the victim is under 18, there will be disproportionality. Can you elaborate on that? Last week, we talked about the concern that you may well have a victim who is 17 years and 11 months and a perpetrator who is 18 years and one month. You have highlighted the scenario where they are both under 18.

Ms Hanna: Our concern is that, if they are around a similar age, we could end up disproportionately criminalising and giving a harsher sentence to younger offenders. While, obviously, domestic abuse is a significant issue, even in teenage relationships, and must be addressed appropriately, we do not want to see, where both partners are around or on the verge of 18, the perpetrator being more harshly punished than other individuals around the same age. It is more that younger people should not be disproportionately affected because of the clause. We appreciate that the clause is trying to address the circumstance where there is potentially a significant age gap and people are preying on the vulnerability and naivety of youth. That is our concern. I understand that you have the National Society for the Prevention of Cruelty to Children (NSPCC) and Barnardo's speaking to you today, and they may have more information on that.

Ms Dillon: On clause 11, you highlighted that there are aspects of child abuse legislation that are not fit for purpose.

Ms Hanna: We are not actually aware that there are. We ask the Committee to be mindful that the Bill introduces the element and the crime of coercive control. We are not sure whether the child protection laws have that element in them, and it was really to flag that as something to be aware of. We do not want laws to duplicate other laws, and we appreciate that, where there is a child victim involved, that would be dealt with under child protection legislation. We just want to make sure that the coercive control element that is distinct to this Bill is replicated in those protection laws, if that makes sense.

Ms Dillon: Thank you, Geraldine. You have already covered clause 12, so I will not take you over it again. I raised concern that domestic violence protection orders (DVPOs) and DAPNs are not included, because I do not believe that non-molestation orders are fit for purpose. They do not work, and I am a wee bit concerned about those not being included. Is that your view? If it were possible to put them in, do you think that that should happen?

Ms Hanna: Yes. We think that the protection notices and orders are an essential component in helping to manage and deal with the risk, to implement the Bill effectively and to protect victims. We understand that the intention is to bring it forward in a miscellaneous Bill. What we think that it would be preferable if it were in this Bill, if it were going to unnecessarily delay it, we would rather wait for the miscellaneous Bill, on the understanding that such a Bill is coming. Ideally, it should be part of this Bill because it will be an essential tool for the police and courts to help deal with that.

Ms Dillon: We were told that it would come in the miscellaneous Bill, but we have this Bill, the stalking Bill and the miscellaneous Bill, and my concern is about whether all that will get through in this mandate. I have a concern about us ending up with really good legislation but not having things in place for the police to be able to do something about it.

The Chair raised Operation Encompass. I have raised that with the Department and the PSNI. I have been told that there are legislative gaps and that it is being looked at, but I do not think that we ever got an answer to that. I think that we should write to the Department and ask whether there is a legislative gap in being able to implement Operation Encompass. If there is, we should look to put an amendment in this Bill, because, for me, it is vital. That is the thing that will make a real difference to a child who is living in a home where domestic violence is happening. That is what can make the difference in their life. They would have a better outcome overall and in their school life in particular. Their potential educational outcome would be better, but they would also get pastoral care in school, if Operation Encompass were in place. I think that it is vital. Can we write to the Department about that to ask whether there is a legislative gap, and, if not, how can it be implemented? It is being used across the water, so it is already in place there, and we definitely need to look to that.

We have heard from a number of witnesses who looked to the different types of victims' commissioner, whether it is a domestic abuse commissioner or an overall victims' commissioner as in England and Wales. Maybe we should look further. Maybe we need to ask for research to be done on whether there is best practice in other places around the world. Is it best placed as a commissioner, some type of small scrutiny committee or some type of ad hoc committee? I do not know the answer, but I would like to know if there are examples of best practice. If it is an individual commissioner and that is best practice, at least the Committee will know. At the minute, we are having conversations in a bit of a vacuum, and everybody has a different view on the best way forward. I do not know the right way to go forward, but I would like to scope that out, if that is possible.

Mr Beattie: Thank you, Geraldine, for a really informative written briefing, and what you have said so far today has been really useful. On the back of what Linda said, I am absolutely supportive of a victim

of crimes commissioner. I think that we need it sooner rather than later. I know that other people in the room feel the same, and we have discussed it with you and others. I would like to have that conversation again in regard to this. I am not sure whether it can be encompassed in this legislation. It might have to be stand-alone, but I think that we could move quite quickly, so I am absolutely supportive of that.

I note that you said that you welcome the fact that it is not gender-specific legislation. I am in agreement with you on that, but you went on to say that the training for first responders should be gender-specific. Will you outline your reasons and rationale for that? I think that I know why, but will you go through it for us?

Ms Hanna: As you note, we do not believe that the Bill needs to be gendered, but our concern is that then some individuals may fall out of that, so we believe that the actual legislation needs to cover all victims, but the training needs to have the gendered focus so that people know how to respond to it.

I will give a few examples. Under the Bill, we could see a male perpetrator controlling female victims with threats of violence because they are bigger and stronger. We could see a female perpetrator who is controlling a male victim with threats of taking their children and getting full custody. We could equally see a same-sex perpetrator controlling a partner with threats to out them to their family, their church and their community. So, it is important that we look at domestic abuse through that gendered lens and at the structures, systemic inequalities and patriarchal systems that lead to domestic abuse situations.

We need the training to cover the nuances of abuse and the power dynamics that drive it. For example, there are two scenarios that help to demonstrate that point. In one case, a man accuses his ex-wife of withholding his children from him. He does that because she is withholding the children from him as an act of abuse against him as part of a pattern of abusive behaviour towards him. On the other hand, a man accuses his ex-wife of withholding their children from him. He does that because he is the abuser and is attempting to use the child contact system to further abuse and control her and the children. Those cases involve exactly the same action but have two completely different contexts. We think that all practitioners need to be aware of the dynamics and the gendered nature of the abuse, so that when they are investigating, prosecuting and judging cases, they can spot the signs and appropriately manage the risk.

As I think about that, I will just reinforce the point. If Committee members remember anything that I have said today, the one thing that I want you to take away is the importance of education and awareness. If we do not get that right, the Bill, in and of itself, will not achieve its desired outcomes. It is essential that we have informative training in relation to that. That will not necessarily take a long time to pull together. The Criminal Justice Inspection Northern Ireland (CJINI) reports on domestic abuse recommend that the police in particular avail themselves of the Domestic Abuse Matters programme. There is material out there that we can draw on, but it is essential that whatever training is delivered highlights the gendered nature of the crimes and the nuances, so that those who are tasked with delivering the law are appropriately informed in their application of it.

Mr Beattie: Thank you, Geraldine. You are absolutely right, of course. I mentioned first responders, but this starts in the school playground and with teachers, so it is about education all the way up. You are absolutely right about that.

I would like to bring you to something else that I had never really thought about. It is not within our remit in some respects, but it is an interesting point to raise. Some people who are being abused have what is called insecure immigration status. You made a really important point, which is that, because their immigration status is insecure, some people who are being abused are not willing to report that abuse in case it highlights that issue and causes them to lose their immigration status. That is really important. You talked about a destitution mitigation fund that could help those people. How would that work, if we decided to try to do something bespoke like that in Northern Ireland so that people with insecure immigration status could come forward, bearing in mind that we would have no say if someone decided to look at their status, which could be counterproductive for them?

Ms Hanna: We appreciate that immigration is not a devolved matter, so, in a way, the Committee's hands are tied in that respect. Were there to be a secure and sustainable destitution fund with appropriate funding, the voluntary agencies in particular could do a lot to promote its availability to victims and to the public. It would not be a panacea. It is not a devolved matter, so I presume that no one can say in writing that, if you come forward, your immigration status will not be looked at. That is

not within our powers in Northern Ireland. However, it would encourage more individuals, if they knew that, first and foremost, there was financial support to enable them to move somewhere else and that, then, the appropriate legal advice and support would be given to them as their migration status is explored.

Mr Beattie: Geraldine, thank you, and, again, I think that you are right. Anything that we can do that gets people who are suffering domestic abuse to come forward, regardless of who they are, is incredibly important. We remember, of course, that abusers will go on to abuse other people. If they do not come forward, we create further problems. I thought that that was really interesting, and I will give it a bit of thought. Thank you very much, indeed, Geraldine, for your time.

Ms Dillon: Chair, may I come in quickly on that last point that Doug made?

The Chairperson (Mr Givan): Yes.

Ms Dillon: It was said that it is not a solution but we should follow it up. That probably falls within DFC's remit. It is not necessarily to do with the fact that they will be deported; very often, it is that they have no access to benefits. It is about financial assistance. Maybe we need to write to DFC to see whether anything can be put in place by way of a fund. They are unable to access benefits, and we have limited control over that. However, can some other type of fund be made available to those people? They cannot leave the home in which they are being abused because they have no access to financial aid. That is the main issue.

Mr Beattie: That is why Geraldine recommended a destitution mitigation fund to cover that. You are absolutely right. I get that piece. The piece that I come from is, because they are insecure in status, they are scared to come forward in case it highlights their immigration position. There is a fear there. It is great to have the fund for them, but, if they will not come forward because they are scared that it highlights their situation, that becomes a problem. It needs to be a twin-track approach of saying to people, "We can help you with this, and here is the funding as well". You are absolutely right, Linda.

Miss Woods: Geraldine, thank you for your presentation, and thank you to Louise for the submission. It was very detailed. I certainly welcome the clause-by-clause analysis. It helps us to go through the Bill.

A number of my questions have been covered, but I want to pick up on the lack of support for migrants and refugees if they have no recourse to public funds. Do you think that that needs specific mention in the Bill? A campaign is ongoing for the Westminster Domestic Abuse Bill to meet the requirements of the Istanbul convention. Do you think that it could be specifically mentioned here to strengthen the Bill?

Ms Hanna: We certainly would support any efforts to strengthen the Bill. As I keep saying, we do not want anything to delay the Bill unnecessarily. So much of the work is not just on the Bill but on its implementation and the guidance that will be issued alongside it. We hope that that will be statutory guidance. The setting up of funds and mentioning them in the Bill would be really helpful and would help to demonstrate Northern Ireland's commitment to the issues raised.

Miss Woods: Thank you. I completely agree with that.

I welcome your support for Operation Encompass. The legislative mechanism already exists here. We have the Children's Services Co-operation Act, which requires Departments to cooperate for the sake of children. Have you looked at that or has it come up? As far as I can see, we already have it here.

Ms Hanna: We have not looked into the specific legislative support for it. It is not a new issue that has come up only with this Bill; it has been called for, for quite some time, particularly by the voluntary and community sector. We heard that there were issues with the ability to implement it. I am not sure of the specifics. However, it works elsewhere. Its merits speak for themselves. Anyone you speak to about it understands the logic and common-sense approach that it advocates. It is evident. Whilst we are not sure what the stall is, we encourage the unblocking of any blockage as soon as possible.

Miss Woods: Clause 4 refers to verbal and non-verbal abuse. Do you think that there is sufficient protection in the Bill from abuse taking place online or on digital platforms? Does that need to be strengthened?

Ms Hanna: We welcome the fact that the Bill includes non-verbal communication, which includes online and digital correspondence. Increasingly, we see the use of social media and online technology as tools to perpetrate abusive behaviour, to threaten the dissemination of personal images and to abuse and intimidate victims. The language could be more explicit in that regard for the avoidance of doubt. Including the word "online" might make it clearer. It goes back to the statutory guidance and the education and awareness piece that, we believe, should accompany the Bill. It is from there that the public, front-line workers, and the legal practitioners need to understand what is meant by the other forms of non-verbal communication. Tighter wording might strengthen the message.

Miss Woods: There was mention of the application of the law in cases in which the perpetrator is a child. You have responded to questions on that already. I have a concern about children who are in care and the definition of a family member and who can be a perpetrator. Children in care have increased engagement with the justice system, as we know, and are disproportionately represented in it. What are your thoughts on how they could be protected adequately, or are they protected adequately? Do you agree on the flexibility of sentencing for children who are engaged with this?

Ms Hanna: Yes, we agree with flexibility in sentencing, and we trust that the judiciary exercises discretion and flexibility and takes into consideration the range of vulnerabilities involved for victim and perpetrator. On the first part of your question, we do not know whether the child protection laws are strong enough, although I defer to the NSPCC and Barnardo's, who will have a much better grasp of that than we have. We are flagging it up so that the Committee looks at it in more detail and to reassure ourselves that we are not missing anybody out.

Miss Woods: Thank you.

Mr Dunne: Geraldine, thank you very much for your informative presentation. Operation Encompass was mentioned by other members. As you are aware, a number of children in schools are on a confidential register. They are monitored and have support from social services and so on. Those cases are well managed in the school setting, and the majority of people in the school are vaguely aware of the register, without knowing who is on it. I am worried about the police coming into a school in the morning, perhaps, and advising the principal or someone in the office about an overnight case. The way in which that is done is important. I see your issue about communication; it is important that that information and history is kept. However, police would require training and advice on how to carry it out. It is a highly sensitive area. I assume that the police would do it without permission from the parents or guardians and go directly to the principal. Have you thought about how that is likely to be managed?

Ms Hanna: Yes, we fully agree with those concerns. We do not want any stigma or issues with how schools manage it. We envisage that it will be a phone call, as I understand that that is how it is managed elsewhere, so there is not the visible indicator of police at the school on a given morning. Your point emphasises the need for training not only for the police but for schools and for those who work in them. It may not be the case that you ring and tell the secretary. The police would ring a designated domestic abuse lead or champion in the school, perhaps. They would take the call and deal with it and liaise with the relevant teacher of the child to ensure that the case is managed as sensitively as possible.

I appreciate the concern around that, and I think that your point clearly demonstrates the need for the training to be really well informed and to ensure that everyone deals with this as sensitively as possible to ensure that the affected child will be supported and cared for in the way that any of us would expect children to be looked after in today's society.

Mr Dunne: Do you feel that that evidence is needed to support social services and those in child protection in schools?

Ms Hanna: I think that the gendered nature of abuse, the dynamic around abuse, and the increased awareness of domestic abuse is a societal issue. All of us need it, particularly our schools. Whilst I cannot comment because I do not know enough about their current training in such regards, I do suspect that it is patchy and that it depends on different schools and governors, their approach and what they prioritise. Domestic abuse is a societal issue and is for all of us to address. The more we can do to ensure everyone's understanding of it as a problem for all of us to deal with, the more we help to ensure that we recognise it as the problem, that we protect victims in the future and encourage more people to come forward.

Ms S Bradley: Thank you for your presentation, Geraldine. A lot has been covered. I appreciate that, and, fortunately, members have gone through a lot. Clause 15 deals with aggravation as to domestic abuse. You rightly point out in your paper the importance of education, including people identifying what domestic abuse is so that they know that it can be a potential aggravator. You say that there should be an obligation on all legal practitioners to record domestic abuse, and I suppose, when we talk about a commissioner or what the aftermath might look like in measuring the success of the Bill, that is an important area to tease out. It could be one of the measures to see whether domestic abuse was identified in the first place and, if it had been, how far through the system it carried as an aggravator, and whether there had been an exceptional burden of truth, perhaps, on the victim, especially when looking at the online and digital context. Where should that sit in the Bill, or do you see it as running parallel to the Bill?

Ms Hanna: We probably see adequate recording more as running parallel to the Bill. I will leave it to the Committee to determine whether the Bill should mention that it needs to be appropriately recorded. We have based that recommendation on our learning from how aggravators operate in hate crime legislation. We have seen cases where the defendant pleads guilty to the primary offence, but the hate crime aggravator is dropped. We do not have reporting systems that can monitor why, or in how many cases, it was dropped. Whilst we accept that the domestic aggravator will be harder to drop because it will be more evident that it was a domestic case, our point, primarily, is around keeping appropriate records of these cases and ensuring that, if the sentence is being increased because of the aggravator, that is mentioned in the sentencing remarks by the judge. That, from our experience of working with victims for almost 40 years, has been a key thing for them. It is not just knowing that justice has been done but seeing justice to have been done. We think that that would increase public confidence.

Mr Frew: I hope that you can hear me. Geraldine, thank you very much. You are very welcome. The first thing that strikes me is the concern in your briefing about unnecessary and undue delay. The Committee should lay it down to everyone who is listening in from the Department and all the stakeholders that I do not see anything that should unnecessarily delay the Bill at this stage. We are fast-tracking our Committee Stage, and it is up to the Department to bring the Bill forward for the further stages. It is up to MLAs and Committees to table amendments that they see fit, and that should not really delay the process of the Bill. It may delay the implementation of some aspects of the Bill but not all of it. The Department really should not be suggesting that; I am not saying that it is.

Geraldine, in your briefing, you talk about strangulation and choking offences and stalking and your views given the promise of stalking legislation. There may be an opportunity to add elements of that offence to the Bill, especially strangulation and choking offences, because we can use that as a descriptor of domestic violence. What I am also looking at is the aspect around rough sex. What are your thoughts on adding those at this stage? Any legislation is a snapshot of history. There are no guarantees of a further Bill on anything, so it is important that we nail things down now at any given opportunity. Can you see wording or have wording that could be set in there that would be adequate to cover strangulation, choking offences and rough sex?

The Chairperson (Mr Givan): Geraldine, I will bring you in in just one minute. Paul, if you have a mic or something, will you increase the volume? We could pick you up, but it was quite difficult to hear you.

Ms Hanna: We want the Bill to be as robust as possible, and if we are able to add to and address issues such as stalking, strangulation and rough sex through it without that adding another six, nine or 12 months to the passage of the Bill, we will support that. I was pleased to sit on a stalking legislation group, and I know that there has been overwhelming support for the consultation on the introduction of stalking laws. Stalking is broader than domestic abuse, and we can see strong merit in having separate legislation on it.

Strangulation and choking offences are broader than domestic abuse. However, the review work has not started on it. We are conscious that New Zealand has introduced specific strangulation laws, and, in the review that I read from New Zealand, it looked at it only in the family and domestic setting. What is coming out of that would sit very neatly alongside this Bill whilst not necessarily addressing choking offences in general. If we were able to bring all those in, we would be keen to.

With regard to rough sex, we understand that wording is being drafted for the Westminster Bill, so we could look at that. If that is sufficient and could be easily inserted into this Bill, it would be welcome. My other point is in relation to stalking legislation. If there was any sense that we may not get to that

specific legislation in this mandate — I am not sure how neat it is for draftspeople; I know that people do not like messy Bills — could we put something in that references stalking but, perhaps, has a future commencement date? If, for whatever reason in this mandate we do not get as far as implementing stalking legislation, can we have something in the Bill with a future commencement date that may not need ever to be enacted if the stalking legislation goes ahead as a standalone Bill?

Mr Frew: That is very interesting; I like that train of thought, and we should explore it further. Another member made a point about internet or cyberbullying, and New Zealand is an example that we should look at. You could encase any offence in a domestic setting, which could then cover domestic violence. That is something that we should look at.

One aspect that has not been mentioned — if it has, Geraldine, forgive me — is the practice of using the court process as a weapon, especially if one partner is entitled to legal aid and the other is not. You can see how a parent or partner or victim's resources could be drained by that. Have you any thoughts on that?

Ms Hanna: We do see that. Unfortunately, it is probably more common than people are aware. It comes back to two things: the training and guidance on the gendered nature of abuse and how that can play into the dynamics of a situation. Using a financial situation plays into that. The other consideration is the potential use of the specialist domestic violence court. One of the problems is that we often have cases running in two places at once. If we had one trial, we could see all the aspects that affect an individual case. That would make a significant improvement for individuals where the legal practitioners understand the full dynamics.

The Chairperson (Mr Givan): I am not sure whether Jemma has indicated that she wants to ask a question. I am happy to bring you in if you have a point to raise.

Ms Dolan: No, thank you, Chair, you are grand. Thanks to Geraldine for her presentation.

The Chairperson (Mr Givan): Thank you very much for your evidence, Geraldine. It has been very helpful. You definitely have a very good insight into the legislative process — the drafting, commencement dates and so on. It is not often that we get that from a witness, and those are the types of things that we will want to look at if we are to add in legislative provision. I really appreciate your expertise in that area. Thank you for your submission and, of course, the ongoing work that your organisation does. I knew how vital it was when, some years ago, we carried out an inquiry into the experiences of victims in the criminal justice system, which really gave me an insight into the importance of your organisation. It is very much valued. Thank you very much for your evidence today.

Ms Hanna: Thank you, Chair.