



Northern Ireland
Assembly

Committee for Justice

OFFICIAL REPORT (Hansard)

Domestic Abuse and Family Proceedings Bill:
Consideration of Issues not Currently Included in
the Bill

17 September 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
Ms Emma Rogan
Miss Rachel Woods

The Chairperson (Mr Givan): Members will know that a wide range of issues not covered in the Bill was raised in the evidence received by the Committee. We will now consider those and any information from the Department on its position on them. The Department has provided an update on the issue of providing guidelines to employers and on recognising domestic violence as an issue to be considered in the workplace. The Department says that the Minister for the Economy has asked officials to consider the issue of paid leave for victims of domestic abuse, alongside a range of other employment-related issues, as part of a longer-term vision for employment relations in Northern Ireland.

Again, members, when we are considering the various issues, the Committee can decide whether it wishes to specifically comment on them. The views expressed by the Committee will then be included in its report on the Bill. Where any further information or clarification is required, there is a tight timescale for that. Consideration could be given to bringing forward amendments to make legislative provision for a specific issue in the Bill; if the Committee is minded to make amendments to cover a specific issue in the Bill, the purpose and desired outcome of the amendment needs to be clarified. As has been mentioned, the Bill Clerk, Stephanie Mallon, is here and will be able to provide advice to members in closed session once we have considered all of the different issues.

The Clerk's memo will be the main reference point while going through this. It outlines a whole range of different issues, some of which you may want to make amendments on. Some of them will be outside of scope, but that is something to discuss, and other issues will be in the report. I will not go through each and every point; I am going to ask members where there are areas. I have a number that I want to bring forward, which my colleagues will outline, but that will be more my party's position on the amendments that we would like to see being brought forward. Rather than me, as Chair, going through each of them, I will invite members to indicate which issue or issues they want to see the Committee bringing forward amendments on. The Committee can then consider those. Ultimately, even if the Committee does not agree, that does not preclude members from tabling their own amendments.

Ms Dillon: I agree that you should not go through everything. Some of the stuff, such as the need for education and training, has been raised by all of us in previous meetings, but I am not sure that it needs to be put into the legislation. I think that there is a fairly good acceptance by everybody that that all needs to happen.

There are a couple of things that should not be included, for very good reasons. One of them is the issue that Paul raised: fatal and non-fatal strangulation. I would like to see that in the Bill, but the Department and others have been very clear that not enough work has been done to put something effective in there. That is my only concern. I want to see everything as quickly as possible, but not at the expense of being good. That is where we have to get the balance right. I would definitely love to see something coming through in relation to that, but it needs to be right. That is important in all of this. Whilst we want the domestic abuse legislation to go through, the one thing that we have been careful about so far is making sure that we get things right and that we get information and clarification. It would be very difficult, in fairness, for the Department to give us much clarification around that when it has been very clear that the work has not been done on it. That is my concern around that issue.

The responses that we have received indicate that the Economy Minister is responsible for paid special leave for victims of domestic abuse. I want to know whether we can put in an amendment to this legislation. If we can, we should. It is already in place for public servants — the Finance Department has already dealt with that end of it — but it is not in place for everybody else out there. It is important that it is. If there is the possibility or potential for us to do that in this legislation, we should do it. I accept that the Economy Minister said that she is looking at it. However, this is as straightforward as sick leave. It is an absolute necessity for people, so I think that, if we can do it, then we certainly should do it.

I accept the issues around Operation Encompass, and I am aware that a pilot is going to be started, I think, in south Down. I welcome that and thank the Education Minister for taking that initiative, along with the PSNI. I am concerned that I would be doing harm to the future of that by trying to, again, half do something in this legislation. So, I am content with what the Education Minister is doing in running that pilot. I would be very keen to see it as being more than a pilot and actually being rolled out. However, I will engage with my colleagues on the Committee for Education and to ask them to put the pressure there, where it is needed, and also with my colleagues on the Policing Board around the PSNI and their role in it. It is really important, and it is a vital tool for protecting our children, looking after them and making sure that they get the best possible education. Although it is wider than education because it is all about looking after them and ensuring that they are OK when they are in school, so I think that that is important but not for this Bill, to be fair.

With regard to Domestic Abuse Protection Orders (DAPOs) and Domestic Abuse Protection Notices (DAPNs), again, I would like to be reassured that they will be in the miscellaneous Bill, and I am not convinced as to why they are not in this Bill, but I am really keen that they are put in place. The only thing that I will say is that the PSNI has raised concerns, and the police are at the front line of it, so if they have raised concerns and are more content for it be in the miscellaneous Bill when more work has been done, then I will accept their guidance on that, because they are the people who are going to have to deliver on this.

That is all that I have at the minute; I have another couple of points to make, but I think that it would be fair to let others in.

The Chairperson (Mr Givan): OK. I will outline, from my perspective, on behalf of my party, areas, and then my colleagues are going to populate some of this. The areas on which I would like to see amendments brought forward include the need to address the issue of a commissioner on domestic abuse. Whether it is a commissioner, advocate or a champion, we need to consider some role such as the one provided for in England and Wales by the Westminster legislation. The evidence that we have is that there should be some form of commissioner. On calling it a commissioner, I am not precious about what the title is; it is always about the powers that come with the office or the person, or what the purpose is.

I would like to have a more detailed conversation with the Committee around what that would look like. I have my views around what we need to have. That may mean someone who is, even time-limited, to carry out an implementation review of this legislation in a period of time and who has the power to make recommendations for what is then next to be put in place, which could be monitoring whatever training has been carried out as a result of this. Within that mechanism, a report could then recommend the type of advocate, champion or commissioner that may be necessary.

I am not clear in my mind as to what exactly would be needed with regard to that type of person or what that role would be. However, I think that we need to identify some kind of independent role for what this legislation is trying to do. That is around our need to look at the domestic abuse commissioner issue because it is something that we need to be considering, and I am happy that we should try to pursue this issue further, notwithstanding some of the issues around what the Department is doing and the desire to consult further on this.

Some of the areas to consider would be, for example, whether the role should be for a three-year time frame, indefinitely, part-time, full-time and whether it could be to oversee, scrutinise, monitor and implement legislation around the effectiveness of what we are doing. I would like to have a conversation with Stephanie as to how we could legislate for something on this while not being clear in our minds as to what exactly that should be.

Stalking legislation is another area. The Department has indicated that it is going to bring forward stalking legislation, and I welcome that, but there is stalking legislation in other jurisdictions, and I would like to pursue inclusion of some stalking legislation provisions in this Bill to ensure that the Department comes forward with that Bill. I am content that that Bill may be the more appropriate Bill in which to do it, but I would like to start to clearly signal that this is something that we believe should be included in this Bill. The Department needs to come forward with stalking legislation, but, for fear that it does not, I would hate to have had an opportunity to have included something around stalking and not taken that opportunity. That applies to some of the other, broader points around the issue to do with non-fatal strangulation and the issue around rough sex.

I take the point that Linda made around non-fatal strangulation. It is a bit more complex. I will ask Paul to comment more on that in a minute. It is an issue that he has been particularly keen to pursue.

On the issue around rough sex, a very easy amendment was brought forward by the Government in Westminster on the issue of rough sex, and I do not see why we should not consider that amendment. So, I would like to have a discussion with Stephanie around what that would look like for inclusion in this Bill.

On Operation Encompass, again, I take the point that Linda made. My concern is that we have a pilot scheme, which is all being done voluntarily at the minute, but if we then want to roll that out, the Police Service is saying that there is no legislative cover to allow it to share information with the education authorities. The Department is saying that it does not have legislative cover to do that. I would be interested to know how its pilot scheme is working, given that it has said that it does not have legislative cover to do it.

I would like to give legislative cover, not to put a duty for this Operation Encompass to happen or a duty on the police that it has to do this, but I would not want, in 12 months or two years, the police to say, "Actually, we want to do this, but we do not have legislative cover to do it", when there is potential for us to include it in this Bill. So, I am keen to see whether we can table an amendment that would give that legislative cover to Operation Encompass.

Ms Dillon: From my reading of the papers, my understanding is that it cannot be given through this legislation. It is an educational setting, so it has to come from the Department of Education. It is the same for the Economy Minister's role. I would like clarification on whether we can put amendments into this Bill for things that will come under the responsibility of another Department?

The Chairperson (Mr Givan): It is not that we can. Scope will be an issue. That will ultimately be a matter for the Speaker. If the Speaker decides that it is not within the scope of the Bill, then it is not within the scope of the Bill, but there is nothing stopping this Committee bringing forward amendments to the legislation. That is a clear signal of intent, as well, that we want it.

Ms Dillon: Then, I would support it.

The Chairperson (Mr Givan): If it is ruled that it cannot be included in this Bill, this Committee has clearly signalled that it wants it included, whether that will be for Education or the Department for the Economy, and it touches on the other issue around housing. I would like to see us bringing forward a duty on the Housing Executive to deal with the issue around securing tenancies, but we are being advised that that also may not be within our scope. However, there is still nothing stopping this Committee from producing an amendment, and if the Speaker rules it out, it is ruled out, but that does not preclude us from pursuing it.

Housing is another area that I would like to see us consider, as well as the domestic abuse protection notices and protection orders. I am not convinced about leaving that, given it is in legislation in England and Wales. It has been brought up by nearly all the stakeholders that they are not fit for purpose and we need to have more modern notices and orders in place.

Also, I want to see the inclusion of the offence of upskirting, but it takes us into the area around the conversation that we had earlier on clauses 1 to 4 that, as currently scoped, this includes the kind of connections that this Bill relates to. Upskirting is a much broader offence, but I would like to consider whether that is something that can be included in this Bill. I note the Department's position on that. Again, there is talk of its inclusion in a miscellaneous provisions Bill, but if we have a vehicle to include that, I would be prepared to pursue an amendment.

The last issue that I want clarity on is coercive abortions. I want to pursue that matter and the party does. The Department's response to that is to say that they may believe that there is legislation in place with the Offences Against the Person Act 1861. I find it remarkable that a Department's response to such an important issue, and one which carries a severe sentence, is that it may exist. It exists or it does not.

I could not believe that that was the response, that a Department cannot categorically tell the Committee whether that offence exists in our legislation. It stated that it may do, and then provided words about it being up to the PPS and the PSNI.

I am not going to pursue a position on that one, but I do want clarity from the Department. A law exists or it does not. I was baffled at the response that it may exist.

Those are eight areas that my party wants to see pursued by way of amendments. I am happy that we go into a further discussion around that with Stephanie. Paul wanted to comment on some of those issues, in particular non-fatal strangulation. I am going to ask Paul to comment a little more on what I have said.

Mr Frew: Non-fatal strangulation needs to be included. Whilst there are catch-all clauses with regard to the definition of what amounts to abusive behaviour, because this is so prevalent in the domestic-violence setting, we need to send a message that it is not acceptable.

There are two types of strangulation: non-fatal and the fatal. On non-fatal strangulation, a simple clause like, "Person A commits an offence if that person unlawfully strangles, suffocates or asphyxiates another person, B, with a strangulation, suffocation or asphyxiation that does not result in B's death" could go a long way.

The rough-sex defence is slightly different. I looked at the GB clause and reworded it to catch all. I will read out what I think would be a decent clause that could be inserted. This is not about the committing of a crime with regard to rough sex; it is about the defence of rough sex in a courtroom. So, "If person A wounds, assaults, strangles, suffocates or asphyxiates another person, B, with whom they are personally connected as defined in clause 5 of this Act, causing death or injury", — so that is covering fatal and non-fatal — "it is not a defence to a prosecution that B consented to the infliction of injury".

Then a second clause, "Subsection 1", — which I have just read out — "applies whether or not the death or injury occurred in the course of a sado encounter". That is where they talk about the "50 Shades" scenario. It is about making sure that we copper-fasten the fact that a perpetrator cannot walk into a court and use it as a defence to say that the victim, who is injured or dead, consented to rough sex. If someone dies or is seriously injured out of an encounter like that, it should be a crime, whether they consented or not. If you look at it within the parameters of domestic violence, are we really saying that the victim's consent is sure and true in that scenario, because of all the coercive control and bullying that went on for, maybe, years? Those are the two issues with the rough sex defence. It is so that a perpetrator cannot walk into court and say that consent was given and then something went wrong. And then non-fatal strangulation, to cover what I believe is prevalent out there.

I can go on, Chair, but I have concerns that I would like to raise on other issues. Do you want me to go through them quickly now?

The Chairperson (Mr Givan): Yes. Once you are finished, Paul, I would like to collate a list so that we know whether there are any other issues that have not been mentioned. I have taken a note, and Linda has mentioned some, and I am going to go through and pull together the number of issues that members have. That means I can then park the other issues that are not going to require further

consideration, albeit some of them, in my mind, are very important, but I do not see the legislation as being where they should be. If you continue, Paul, and if other members can put out their issues on which they want to see potential amendments discussed, then we can have a more focused conversation on those. I want to allow members to go through the amendments that our party would like to have.

Mr Frew: On secure tenancies, there has to be something linking the security of the home for victims. We take away a way out for victims if we do not add some sort of protection for them. Victims will stay in a household because they have nowhere else to go, and they will take punishment. They will not leave the perpetrator, with their child, if they cannot get their child a roof over their head, and even their own home in that regard. There should be something on secure tenancies, and it could be as simple as placing a duty on the Housing Executive. I had thought about including housing associations, but remember that it is the Housing Executive's points system that the associations use when administering points. We need to place a duty on the Housing Executive to administer points. We can be selective as to how many points it should administer in a domestic violence setting, but the issue with that is that if it is set in stone in legislation and there is a review of points in the Housing Executive, and the points system changes or is tweaked, then there is an issue having it in legislation. You might want to just leave it that there is a duty for the Housing Executive to take domestic violence into consideration and to administer points through a points system, as it does with intimidation and homelessness factors. It is something that the Committee should look at.

On Operation Encompass, I agree, one, that it is an educational thing, and, two, that it is more so a police operational matter. I am not sure that we need to legislate for a police operational matter. I do think that there is a barrier there for PSNI officers being free with information for people who really need to know, ie teachers and principals. We should be looking at allowing the PSNI and other safeguarding bodies the legislative cover to enable the sharing of information to schools for child well-being purposes so that they do not fall foul of data protection law — GDPR or whatever it is. I never get that right. It is to give them the cover and the confidence to be able to pick up the phone to a principal the morning after and say, "Look, wee Johnny has been running about his garden at three o'clock in the morning whilst his parents have been doing whatever. I know for sure that he will not have his homework done. I know for sure that he will not be prepared for school. If he does enter your building, please be assured of this", so that principals and teachers do not administer detention and do not give out some form of punishment when something is not completed. If the child is distraught and distressed and has behavioural issues because of the scenario that has played out and that he has lived through the night before, I do think that the teacher is one of the most important people who should be told that information. We need to allow the PSNI, albeit it is an operational matter, the clearance and the protection to do so.

As for the other issues that are already covered in the Offences Against the Person Act 1861, there is no reason why we cannot refresh a clause and put it into a modern Bill. For one thing — I do not suggest that this will ever happen — imagine if a historical Bill were repealed. You would lose all that law. If we already have modernised, the fear of that is gone, and you have given it modernisation and protection there and brought it up to 2020.

I do think that we need to consider seriously the domestic abuse protection notices and orders. We have been here so many times before where the Department has promised certain orders and, although it is with good intention, something happens. There are no guarantees in democracy. We could be here today and gone tomorrow, so I think that we should take the opportunity when it arises, and this opportunity is now. If the Department is a wee bit worried about it, it has its miscellaneous Bill coming where it can always amend and do things as it sees fit. I worry that, as we see this term out, a miscellaneous Bill will not come to the Floor of the Assembly. That may be one way of applying pressure on the Department to introduce its miscellaneous Bill.

To finish, I am struggling to do justice to a stalking offence in a clause on this Bill, but I do think that we need to add something in, even it is a catch-all. As I have just said with regard to the miscellaneous Bill, there are no guarantees in legislation. Until I see a stalking Bill come to First Reading, I just do not believe that it is going to be here. That is just my cynicism. I know that it is sitting there waiting. There is no reason why the Department cannot introduce it, and there is no reason why the Department cannot introduce it next week. If the Department brings it next week, we see what is in the Bill, and then we do not have to amend this Bill to include a stalking piece. It is simple: just introduce the stalking Bill next week or the week after. Get it into the Business Office and get it onto the Floor of the Assembly so that we can see it. I will leave it there.

Ms S Bradley: I welcome the contributions from other members, because it is reassuring to know that there seems to be a lot of weight around a lot of shared issues here. From our perspective, I looked at this in three categories, with the first piece being the preventative piece. We have all talked about that, and we have talked about training and about educational programmes. With any piece of legislation, I think that that is always a smart place to start. If you can prevent anything of this sinister nature from happening in the first place, there should definitely be a direction towards that and a commitment to supporting something in that realm.

Moving on to the event where something has happened, I am staying true to the nature of this legislation by saying that it is there to support victims, empower victims and ensure that victims feel that, by coming forward, justice will be served. With that in mind, I think that taking a very victim-centred approach from the outset has to run through the Bill. That is why I think that, in the instance where a victim has come forward and has triggered this Bill for action, there should be an immediate piece that looks at the implications of doing that for the victim. That means understanding their personal circumstances and putting behind them all the support that they need. Things that may be relevant to them may include paid leave, housing and, if this is a person who has responsibility for children or a caring responsibility, their being supported in every aspect of their life to allow them to maintain some type of normality while they take on the turmoil of going through a case like this. We are very keen to see all of those building blocks to support the victim. I am not precious about what heading they have, if we find a shared space to say, "Yes, this is the piece where we are going to support that victim at that very vulnerable early stage".

My reservations are —. There is the terminology "abusive behaviour", and then very compelling and strong cases have been made to this Committee about particular behaviours that I do not doubt for a moment would be considered abusive behaviour. But when we start becoming prescriptive on what that is, I have this fear in the back of my mind about what we are leaving out. I am really cautious of that. It is not that I do not fully support people coming forward and saying "this behaviour" or "that behaviour". I get that, and I fully support it, but how do we make sure that that does not lessen any behaviour that we do not proscribe or name? By virtue of the new world that we live in, I am conscious of the whole online type of abuse that can happen. We have mentioned it, but it seems to go to the periphery at times. It does not necessarily have to be in person. It could be part of a continuation of abuse, and I am not sure that we have spoken in enough detail on how we can bring that into the Bill or acknowledge how it fits into the abusive behaviour scenario.

Finally, it is looking at the final piece, in that we hope that justice can and will be served. The final clause, where the relationship can be proven, is an important piece that is there, but there are also then the realms of whether we create that register. What is the aftermath of this Bill if somebody is found guilty and comes through the system? Is it on a par? I want to measure it against other registers. Have we missed an opportunity, or does it suggest that it is more lenient when other crimes do require somebody to go on a register? We need to weigh that up as a final piece on the end outcome.

The Chairperson (Mr Givan): I want to come back later, just so I can summarise. There is an issue around training and the agencies being ready for this legislation; how you support victims and have a support structure for victims; understanding the term "abusive behaviour" but recognising, if you go down a prescriptive route, what you are then leaving out; proving the relationship side; and whether there is a need for a register.

Ms S Bradley: Yes.

Miss Woods: A lot of things I had questions and comments on have already been raised, so I will not go into them. With regard to the domestic abuse protection order (DAPO) and the domestic abuse protection notice (DAPN), we certainly need to look at the Scottish model and what they are doing. They are doing emergency barring orders, and consultation has gone out on that. Women's Aid in Scotland is much more supportive of emergency barring orders than the DAPOs and DAPNs which are currently in operation in England and Wales. That is something that we need to get more information on.

I have quite a big concern on the data collection and monitoring of this legislation from an operational side. This links to the reporting aspect that was brought up. It is something that I have been working on in terms of amendments, but we need to have a streamlined approach in how data is collected from the PSNI, the PPS and the judiciary, and also just facilitating data sharing, because that is obviously an issue.

Training was mentioned, but I think that it should be made mandatory in statute. It has come up time and time again that the judiciary and criminal justice system must be trained. Where better to have that training than in legislation, written down that it needs to be done?

I also have concerns about resourcing and funding. There is a need to allocate much more to the community and voluntary sector, as it is generally picking up the support. We also need a statutory duty for sufficient resources for the operation of the Act. It is something that we need to look at and is certainly something that I have been looking at.

With regard to issues that have been on this list, a violence against women and girls strategy is something that we absolutely need to consider. We need a specific strategy to deal with gender-based violence. We are the only part of the UK that does not have one. Without one, we are not meeting our Istanbul convention requirements. I appreciate that the Department has a strategy with the Department of Health, but it is gender-neutral, as we know, and I am really concerned that, in the absence of such a strategy, the gender-specific nature of domestic abuse is not being fully considered in Northern Ireland. I have many more issues that I could go on with, but those are the specific ones that have not been raised.

My final issue is that of equality screening. It was quite an interesting response that we received from the Children's Law Centre (CLC) about section 75 and the impact assessment, so I will be looking for an update from the Department of Health and the Department of Justice on that.

Mr Beattie: The depth of scrutiny here is really quite impressive. I am really impressed by how people in the room are looking at this legislation. It really is good.

I will raise a couple of issues. I have tabled a motion for debate in the Assembly on the appointment of a victims of crime commissioner. It is not related to the legislation, but it will have an effect on it. Members will know that I have raised that issue with the Justice Minister regarding crime, and my doing so was based on a double murder in Portadown, not this Bill. A motion on a victims of crime commissioner will be going before the Assembly, and I hope that we will have some movement on that. It has an absolute effect on this, however. I just wanted to let you know that, Chair.

I have a concern about parental alienation. I know that, when we had the evidence sessions, witnesses said that they did not want to list a raft of different issues, but there is a specific issue around parental alienation and contact denial, and that feeds into non-molestation orders and contact orders as well. I could be confused, but I think that neither the Scottish model nor the English and Welsh model has a specific clause that mentions parental alienation. I honestly think that we need to go down the road of naming that issue. I am not in the game of trying to name all the different circumstances, but my party certainly wants to look at parental alienation in more detail.

The last issue that I will raise — there are an awful lot more — has already been mentioned in such depth by other members. I give this view as a Committee member. It is not a party view. We have had the discussion before about coercive abortion. If we are to look at coercive abortion, we must look at coercive prevention of access to abortion. One cannot come without the other. The two must be viewed in the round. Some women are coerced or forced into getting an abortion, but there are women out there who are coercively prevented from accessing an abortion. If we start to look at that aspect of it, we must look into how it would fit into the abortion Bill. It would have an effect on that Bill at a later stage, because women could then raise the issue that they are outside the time frame for a legal abortion purely because of coercion. There is therefore a spin-off from that issue, Chair. I know that you are looking for more detail. I get that and am happy with that. I am talking as a private Member. That is not a party issue but my issue.

Ms Rogan: I would like a bit more information on the register of stalkers and domestic abusers. We need to look at that and see its potential. The Department has said that it is happy at this stage, but we need to see the potential benefits of having a general register.

Ms S Bradley: Chair, may I add to that? The Department said that it is not actually a register.

The Chairperson (Mr Givan): It is a notification requirement.

Ms Rogan: Yes.

Ms S Bradley: Yes, but we use that title as an understanding of the realm that we are looking into. We need to see whether there is any merit in it or none.

The Chairperson (Mr Givan): I will go back through the list to give everyone —

Mr Dunne: Chair, may I make a couple of points?

The Chairperson (Mr Givan): — an opportunity to comment. I want to compile a list of issues that members bring up that are not yet in the Committee Clerk's memo. All the issues that have been raised are meritorious and will be in the report, but members may not have mentioned other issues. I want to keep the conversation to the areas that we want to look at in more detail around legislative provision.

Ms Dillon: I have a couple of points of information on housing. A review of the points system is currently under way, some of which is based on what we have been raising over the past number of years, such as the fact that you can get intimidation points for being subjected to sectarian abuse or abuse because of your sexual orientation but not for being a victim of domestic abuse. Often, the perpetrator can claim intimidation points because he is under threat as a result of abusing his wife. He gets a house, yet his partner, and potentially children, are left with no points. Going by what the Minister said in the Chamber this week, that is definitely an issue that she has an eye to. I would like to think that that is in there, but we should ask for an update on where the Department is at with it, if that would be helpful.

I listened to the arguments around the idea of a commissioner and whether it should be a commissioner for crime or for this specific area. I am still open to listening to all the arguments. If we are going to consider having a commissioner, based on some of what Rachel has said, would it be a commissioner for domestic abuse, sexual abuse and gender violence in general? Would it be gender-based in that way? Would the commissioner have the potential to pick up all the pieces that we have said are really important but are perhaps not be put in the legislation, because, otherwise, the Bill would not get through in the next 10 years? Could a commissioner pick up on such areas as training, education, funding and working with other Departments on, for instance, housing or health? It is about having a person to link up with to look at all the issues that we are not able to put into legislation and to make sure that they are implemented. That is something for us to think about, but it is not hard and fast.

The Chairperson (Mr Givan): Let us have a bit more of a conversation around the key areas that we have highlighted. I want to see whether there is a broader Committee view on what some individuals would like to see brought forward, because that will help give structure to the deliberations.

To close, I will highlight a couple of the other issues. Nobody has said that the requirement for a multi-agency, collaborative approach should be in legislation. I am taking it as read that that should be happening and that we do not need to legislate for it. That is why I have not included it as an area on which we need to receive evidence. I do not believe that that needs legislating for. No member has mentioned that because it should be happening.

A public awareness campaign is another example. Again, I do not feel that there should be a need to legislate for that. It should happen. I do not think that we need to put it in legislation, and that is why I did not mention it. We have not felt that they should be brought forward by way of legislation but feel they should be happening, and that can be referenced in the Bill. Those are all very important issues that will inform the report.

We will now focus our conversation on what legislative text should be considered. Again, we are not asking for a final decision. We need to talk about the areas for which we would like to see potential drafts. Following that, we will go into closed session with Stephanie to tease out the issue. Members can see the draft amendments about what the Committee can do before they need to say yes or no.

I will pick up on some of the issues raised. Linda mentioned paid special leave and that that should sit with Department for the Economy. I get the argument for the Department for the Economy taking that issue forward. Similar to that, members brought up an issue around child contact orders. An amendment coming through deals with one aspect of that, but the defence is that broader child legislation lies with the Department of Finance. That leads us on to the housing issues. Do they lie with another Department? I ask that we touch on those three areas for the moment, because they are areas for which other Departments may be responsible. I will include in that Operation Encompass

and the Education Department. I am therefore keen to tease out with members their views on those four areas and on whether we should try to pursue an amendment.

Mr Dunne: Leave is an important issue. In the public sector we assume that a sympathetic line manager who is caring and aware would grant special paid leave, but I worry about the fear people that would have about bringing forward the issue and making their line manager aware of it because of the stigma and the worry that their colleagues and associates would know about something that they want to try to keep hidden and to themselves.

Whether people in the private sector will be able to get special paid leave is the biggest concern. We need to look closely at that and make sure that the legislation covers it. More and more, the private sector is under pressure to grant special paid leave in various circumstances. That is right, but they do push back against it because of the cost and the implications for running a business, but something needs to be put in to make sure that those working in both sectors have equal protection.

On Operation Encompass, I have said before that I am still not sure that the police are the people best placed to do that. As you are probably aware, a lot of school children are on a register and are supported by social services. Therefore, schools are aware of a lot of those cases, but I am not sure that the police have a direct role in this. I remain to be convinced. We are all aware that the police work at different levels of interest and competence, and some officers would be good at this and others would not. Once again, their training comes into it. I remain to be convinced that the police should be rushing into a school. I know that they do not have to physically rush in, but they have to communicate directly with a school on this issue.

It is a huge issue for the police. They keep telling us that domestic issues, including domestic violence, are among the biggest responsibilities that they now have. How do they define what is an incident at home? Is a family shouting match classified as domestic abuse and something that should be reported to a school? Those are difficult issues, and I am not sure that the police have a real direct role in it. We should look at that closely. However, generally, Chair, I am happy with the points that have been made to date.

Ms Dillon: We should certainly be looking at them. My only query about Operation Encompass was my concern that we were veering out of the scope. However, if that is up to the Speaker, I am content to at least give it a go.

To address some of Gordon's points, as for some police officers being good and some bad, it is the responsibility of the PSNI to make sure that whoever brings that information to a school is good. It is not good enough to say that some will be good and some will be bad. Some are good and some are bad at everything that they do, let us be honest, but we do not use it as an excuse not to deal with all the issues that we have to deal with every day.

Really, the only responsibility of the PSNI on that is to make the school aware that there was an incident at the home last night. They do not need to give the details of the incident — they should not give the details of the incident — they should simply make the school aware that there was an incident in the home last night, that they were called out, and whether the child had to be removed from the home. It is literally just to make a school aware that if a child comes into school on that morning they may well not have had breakfast or any sleep all night, so that if they do not have their homework done, their uniform is not right, or they just do not seem to be right that day, that they are getting that little bit of extra support instead of being asked where their homework is or why they do not have their tie on. They are small things, but they are massively important to the child and to their ability to get education and the support that they need in school. That is really what it is about, and in areas where it has been rolled out, it works really well and has had a very positive response. For me, Operation Encompass is an important one.

I turn to special leave. Gordon said it himself: this is about making sure that both sectors are treated equally. At the moment, they are not. In the public sector, there is access to special leave, but in the private sector there is not. I understand all the challenges that the private sector has. I worked in it for many years, and in the public sector too, so I understand. Realistically, people are not going to abuse something like domestic abuse special leave. We already know that people take that time off as sick leave. That might still happen, because you are right: people will not always want to say, "I suffered a domestic abuse incident" or "I am involved in domestic abuse." However, I know of circumstances where people have gone to their employer and said, "I am going through a very difficult time. I have just had to ask my partner to leave the house", or "I have had to leave the house." However, if their employer would like to give them that special leave, they do not have it in place. Where it is there, it

does not force anybody to admit what they are going through to either their line manager or, in the private sector, their employer. They still have the option to go for sick leave or holiday leave, whatever way they want to get round it. However, it is important that it is recognised. For me, those are the main issues.

The Chairperson (Mr Givan): On that, and Operation Encompass, I would not be willing to place a duty on the police that they must inform the school. That has to be a judgement call for the police.

Ms Dillon: *[Inaudible]*, Chair, and you are right.

The Chairperson (Mr Givan): To me, it gives the legislative cover that, if they wish to do it, they can. That is a distinction to draw out in a potential amendment.

Miss Woods: On Operation Encompass, I still do not understand what the legislative barrier to this is. There is child protection legislation and child safeguarding legislation. The Children's Services Co-operation Act specifically states that it is about, "the well-being of children". I am really unsure. I know that the Department has given a bit of information on this, but what more do we need?

The Chairperson (Mr Givan): Yes

Miss Woods: We talked earlier about how you do not have to give details to a school. You do not; that would be covered under the general data protection regulation (GDPR). You would not necessarily be allowed to. They are operating a pilot scheme, which has not started yet. How can they do a pilot scheme without legislative cover? I do not understand that. Maybe I just do not understand the implementation of pilot schemes. How much more legislation do we need to share information about the well-being of children?

The Chairperson (Mr Givan): Yes.

Mr Frew: Just on that, Chair. I am cynical, but, in my experience, sometimes Departments put in place a pilot scheme to pilot something to death. I do not trust pilot schemes. I ask that fundamental question when I see one coming up: where is the timing? With those doubts, and I have exactly the same doubts, Rachel, we could insert a clause, even if it becomes a moot point. We are talking about legislation, and we have to take it seriously, but just by adding it in, we may just give the confidence so that we not have to ask the question, "Why can you not do this?". What we say is, "Yes, you can do this." That might be the difference between having a clause and not having one. Those are my views, and that is why I support not placing a duty on the police, or any other safeguarding body for that matter, but just allowing them the legislative cover to do so.

I do not know; that is why I am asking. I think out loud sometimes, and that is very dangerous. If we give them legislative cover now and the law changes and a Bill comes in next year to do with data protection or child protection, does this legislation cover it? I do not know; I am asking that out loud. It is something that we can discuss over the next couple of weeks.

The Chairperson (Mr Givan): Are there any other comments? I am trying to tease out whether there is a general view that we should explore this further. We want to go into a closed session with the Bill Clerk. On some of this, we will need legal advice on the scope of the Bill, and so on. That will help to inform members. I am getting a general view, notwithstanding what more legislation they need, that Operation Encompass is something that we should pursue, with a view to providing legislative cover, not placing a duty that they must, but that there is legislative cover to share information. It then becomes an operational matter for the police. If the police want to utilise that provision, information can be shared. That is not a territory that we are going into, but generally that is how I see member's discussions on Operation Encompass.

Miss Woods: I get the point that the scope of the Bill requires two or more occasions to prove that there has been a domestic abuse offence. However, with Operation Encompass, we need to tease out that this is about incidents that have not formed an offence yet because they have not been taken to the police, prosecuted, submitted or investigated. I understand where they are coming from and that, within the scope of the Bill, this might not be able to be in here. However, as with all my previous questions, and alongside Paul, I do not know yet. Surely this is just an operational policy issue, then, because, in my opinion, all other legislation is there to back this up. I get why this might not be within the scope, and I am happy to take that conversation further with Stephanie, later on, to see if that is

something. It may not be, as it will only cover two or more incidences if it is an offence. For example, say the police were called out, and it was the first incident that had happened in a household. However, they could not let the school know if it was only in the Bill that it could only happen if it was the second, third or fourth time they were called out, if you know what I mean. It might not capture those single incidents which would, obviously, form part of the offence. We may be able to ask for something operational that might just be in the guidance, just to have that in terms of information sharing. It could be captured there, rather than be reliant on the scope of the Bill.

Ms S Bradley: Everyone's intentions are good on this topic. However, I am mindful that there are ramifications about whether we fit it into the Bill or whether we are teasing out a very important operational piece of work that has to be done anyway. I wonder what role the Education Committee will have in this, because obviously there are resource issues once the school receives this information. There will need to be a detailed look at what to do with this information and how to use it well.

The Chairperson (Mr Givan): OK. On the other ones around housing, are members content that we explore this further with Stephanie? Is there a potential amendment? I am with Paul about placing a duty on the Housing Executive, if that is something that can be done in this Bill. It is happening in other legislation — we have highlighted the issues around this in other jurisdictions — but not specifying what that will look like for the Housing Executive, but placing a duty on the Housing Executive to reflect this in whatever scheme for the allocation of houses. It is not for us to say, "That is worth 10 points or 100 points", but we should explore putting a duty on the Housing Executive that must be reflected in its housing allocation scheme. Generally, that is where I am on exploring the issue further with Stephanie. I am happy to explore the paid leave issue as well with Stephanie.

Miss Woods: I am happy to have that conversation. The Department's response on this said that discussions were ongoing in relation to this matter. I would like to know what those discussions are. Also, the Committee for Communities was briefed on the Bill, and it said its views were considered. Have its views been considered, especially in relation to the explanatory memorandum and the guidance? Could there be an opportunity to have it included there? We also need to get an update from the Minister for Communities about where the housing allocation scheme consultation is and whether there are proposals coming down the line. As was mentioned earlier, if we put inclusion into the duty of the Housing Executive and then the housing allocation scheme points system is done again, removed or added to, we need to look at that.

Linda raised this at Second Stage debate and at other times. We absolutely do need to provide housing and safe secure roofs over people's heads if they leave the home, but also for those who do not leave the home. As we know, it is usually the victim, who is normally a woman, with their children who have to leave, and that is why the refuges are full to the brim. How do we square that circle? I would certainly like to have further discussion on that. I would like to know what discussions are ongoing in relation to that between the Department and the Department for Communities, and also the updated view of the Communities Committee.

The Chairperson (Mr Givan): OK. I am happy that we have covered that we want to do something around a domestic abuse commissioner or champion or advocate. We can tease out with Stephanie what we are thinking and how it would look in legislation.

Generally, members want to see the stalking legislation that Paul mentioned. That is why a Bill is coming forward, but we want to see the colour of the money of the Department and hold its feet to the fire. Are we able to do that by putting forward our own amendment? What that would look like?

Miss Woods: Can we ask the Department if it has confirmed a date when it is going to submit the stalking legislation, or is that not information that can be released?

The Chairperson (Mr Givan): The Department has told us when it hopes to introduce the Bill: soon.

The Committee Clerk: My recollection is that it is November/December, but I can double-check.

Miss Woods: What I am looking for, if available, is a confirmed date for its First Stage introduction into the Assembly, and whether it has been added to the business diary, let us say. I would completely support a stand-alone Bill for stalking. Stalking is so bad in Northern Ireland that it needs to be in a stand-alone Bill. However, I also have queries about whether or not we could put stalking into this Bill,

because we do not yet have it as criminal behaviour. Is that putting the cart before the horse? If stalking, as a provision, was not in this Bill, but in further time a stalking Bill came in, that would require an amendment to clause 13 for the alternative conviction. I need a bit more information on that. If there is a confirmed date of submission to the Assembly for the stalking Bill, I will be content not to have it in here.

The Committee Clerk: Just to confirm, at the meeting with the Department on 3 September, the update was, "Drafting of Bill complete by the end of the summer. Seek Executive approval for introduction to the Assembly. Introduction November/December."

Miss Woods: Maybe any other member here can tell me whether the Executive has approved that.

The Chairperson (Mr Givan): They would be breaching Executive confidentiality.

Miss Woods: Of course.

The Chairperson (Mr Givan): The parties in the Executive would never do that to their colleagues.

We do need to tease out that issue, and Stephanie will advise us on scope and so on and what that would look like by way of legislative text, to cover what issues. I am happy that we will tease that out further with Stephanie.

Mr Frew: This is very challenging, because the whole make-up of the Bill is about family connection. Stalking usually does not have a family connection, a bit like upskirting. I am struggling, I really am. Even if you did get a really good clause, one clause does not do it for stalking. I do not mean this disrespectfully to anyone, either the legislation or the Department, but it really is just a pressure point ultimately to try to get something down sooner rather than later to assist victims.

Ms Dillon: Can we at least ask the Minister if the Bill has gone to the Executive? We do not know, and we cannot ask the other Ministers, but the Minister can confirm if it has gone to the Executive and if there is agreement around it. I am probably still in the same place as Rachel in that there needs to be specific stalking legislation. To be fair, I think that Paul, too, is there, but the concern is around what happens if we do not have anything.

Is the upskirting piece better in that legislation, because of this legislation being around the family connection? Generally, upskirting has no family connection. I do not recall having any case where there was an issue around things like that and where there was a family connection. Maybe we could be looking at putting something around upskirting in the stalking Bill, but it is important that it goes somewhere.

Miss Woods: Just to come back on the upskirting bit, I note in one of the other parts of our pack that upskirting is to be included in the miscellaneous provisions Bill, which is obviously coming down the line soon — this year. If and when the miscellaneous Bill comes in and upskirting is not in it, this Committee could look at putting forward an amendment to it.

The Chairperson (Mr Givan): Yes, we could. I am slightly concerned about whether this miscellaneous provisions Bill will come forward, because they are starting to pull out some items that were going to be in it, and now we are getting it as an individual Bill. That indicates to me that some officials in the Department do not want to hang their piece.

Ms Dillon: They are hedging their bets.

The Chairperson (Mr Givan): What was the one that I picked out? Was it personal injury discount?

The Committee Clerk: Yes, there is a separate personal injury Bill.

The Chairperson (Mr Givan): There is a Bill coming forward on the issue around personal injury discount, which was meant to be in the miscellaneous Bill, and now that is coming forward as a separate Bill. I ask myself why. I think there is concern that —.

Ms Dillon: It is not happening.

The Chairperson (Mr Givan): Yes. I am just cognisant of that.

OK. Let us tease out a bit more with Stephanie the issue around stalking legislation. It is similar to the upskirting-type offence and some of the issues around it. Also, then, rough sex and non-fatal strangulation is an issue that we — I say "we"; I mean "the party" — are keen to pursue.

The Committee Clerk: Chair, can I just clarify? When we are writing to the Department on the stalking legislation, does the Committee want to ask if the upskirting offence can be covered in that legislation, or are you content that it goes into the miscellaneous Bill?

Ms Dillon: I would like to ask if it is possible or if the Department will look at it. As Paul said, it is looking at bringing other things forward, and we have been reassured on a number of occasions that the stalking legislation is coming forward, but we are concerned about the miscellaneous Bill. If the stalking legislation is coming forward in December, and you are going to get upskirting in there, we are more confident that we might get that through in this mandate if we can. If it can go in, why not put it in?

Ms S Bradley: Chair, have we explicitly asked the Department about your concerns around why it is bringing that forward independently?

The Chairperson (Mr Givan): No, we have not raised it. I have just observed that the Bill is now coming forward as a stand-alone Bill. It just makes you suspicious.

Ms Dillon: Very cynical.

The Chairperson (Mr Givan): Yes, but we can ask if the miscellaneous Bill is actually going to happen.

Training and support was mentioned as well by some members. My own take around training and support and resourcing is how you legislate for it. There is mandatory training, but how do you legislate for what training, what financial support, what support structure? You may be able to put into legislation that there must be mandatory training, but what will that look like? What is the shape and content of it? Who is it applicable to? It just raises those questions for me. We may be able to put into legislation that there needs to be additional financial support for advocacy groups, for example, which is one of the things that some of the evidence provided, but what does that look like by way of legislation? We could legislate that there needs to be financial support for this Bill, there needs to be financial support for advocacy groups and there needs to be support for victims, but how do you specify that in law? That was my only consideration as to whether or not that is something that we could take forward. I would be happy to tease that out with Stephanie, but those are just some of my issues.

Mr Frew: I am on the same page too. Even with the paid leave piece, we are legislating for a private sector whose destiny should be its own in that regard. I will probably need to be convinced on that. Employers should look at their employees and treat them with respect and trying to make sure, so I am not there yet. Also, legislation that becomes all-encompassing and putting duties on things is where I start to lose belief in it. I am on the same page on that.

The Chairperson (Mr Givan): They are all vital.

I am not convinced about how we would legislate for it, but let us tease that out with the Bill Clerk.

Ms S Bradley: On paid leave, I recognise that the private sector is a bit more challenging in terms of what can reasonably be expected. There may be a collaborative approach to administration and payments in that regard between the private sector and the Department for Communities.

Miss Woods: We can tease this out later with the Bill Clerk, but the Department for the Economy is consulting on changes to paid leave in all sectors. It might fall outside the scope of the Bill. I will come on to it later, but I have started work on a private Member's Bill to that effect. The Department for the Economy is already legislating for bereaved parents' leave. That crosses sectors. I do not think that anybody will vote against leave for bereaved parents. It is certainly something that has support; it was in New Decade, New Approach. It is something that we need to consider. Obviously, there will be

concerns from various sectors of the economy, but it is about supporting people, especially the most vulnerable, who are in need of time off work.

The Chairperson (Mr Givan): Rachel, can you elaborate on the point that you made about data collection and sharing?

Miss Woods: Yes. It is probably a bit drawn out, but the police collect statistics on certain offences and publish them in a certain way. That is not the same as the data that is collected by the PPS or the judiciary. For the Bill to be effective, there needs to be, I assume, a broader data collection about victims, including their gender and, taking on board the comments of the migrant centre, maybe their ethnicity. We do not collect that data. Obviously, there will be data-protection issues in that regard, but we can work through those.

If the different parts of the criminal justice system are working to prosecute for an offence in legislation but are not collecting or collating data in the same way, how can we report on it effectively? There are conversations going on in the Department, the PPS, and the judiciary, but if we are looking to see whether the Bill has been effective in getting prosecutions, but the data does not add up across the three bodies that are actually charging the offence, how can we make sure that it is effective and is doing what it needs to be doing if we are not collecting the same data and reporting in the same way? At the moment, the police collect data on incidents and offences, but that is not necessarily the same data that is collected by the PPS. It is certainly not the way in which the judiciary report on it.

A couple of Tuesdays ago, Scotland reported on the Domestic Abuse (Scotland) Act and the offence in terms of its public prosecution, which is different; I appreciate that there are two different systems. However, if we can show annually, through statistics, how effective the Bill has been in comparison across all the bodies that are working on it, that is something that we need to look at. It also raises the reporting. I would be looking to have a reporting requirement in the Bill, and I have started work on an amendment to that effect. Scotland has it; it reports after three years. We do not have a reporting requirement in the Bill, so how will we measure whether it has been effective?

The Chairperson (Mr Givan): That tied up some of my thinking on the reporting review and what role an advocate-type person could have and whether there is scope to have that included. That helps me to get my head around what that issue was about.

Miss Woods: Basically, you could have everybody in the criminal justice system reporting on a domestic abuse offence using different methods and different statistics. We have had conversations in the Committee before about the Department's use of data points and about how it measures things. If everybody is measuring against different data points, how will that match up in a report?

The Chairperson (Mr Givan): Yes. I am just trying to filter that through the lens of what you would do by way of legislation because, again, I am not sure how you would specify in law all the different types of data that you would want to see. However, if there is a reporting requirement, of course, the logic flows that there has to be something to base that report upon, which you would then need to have approved or brought forward by the Department as to what that is.

Miss Woods: To tease that out, I do not think, Chair, that I would be looking for something specific with regard to what data points people collect data on; that could come from guidance and regulation,. However, for the purposes of legislation, it is to put a duty on the Department that would include a need for the criminal justice system to report on this legislation. We are discussing what should or should not go into the Bill, but, in 10 years' time, how will we know whether it has been effective for victims?

The Chairperson (Mr Givan): OK. The violence against women and girls strategy was another one, Rachel, that you mentioned, which I had been looking at as well. This is, again, where I was persuaded on the arguments on having gender-neutral legislation. I was applying that school of thought that if you have it in legislation on the violence against women and girls strategy, is there a conflict with regard to the Bill? That is my thinking on it.

Miss Woods: I appreciate your comments, Chair. However, I do not think that there is a conflict with regard to the Bill. We are the only place in the UK without a violence against women and girls strategy. We have Westminster signing up to the Istanbul convention and finally ratifying it, hopefully. We have a duty to eradicate the reality, regardless of the domestic abuse legislation. They are introducing

legislation, and we are the only jurisdiction without it, so there is a gap with regard to provision and strategy for women and girls in Northern Ireland. I do not see a conflict with this legislation because you will note that there is not a conflict anywhere else.

The Chairperson (Mr Givan): I am taking it as read that it should not need legislation to have a particular strategy and that that is the view on it as opposed to having to spell out in law that you need to produce this.

Miss Woods: It could be something to look at in the guidance. I am just mindful that the strategy that we have on domestic abuse is gender-neutral, but there is nothing in this legislation to specifically address the realities of the Istanbul convention.

The Chairperson (Mr Givan): This is where, in my thinking, and it was raised before, there are different strands of what domestic abuse looks like. We know that it is primarily against women and girls; however, it also affects men and LGBT people. In an overall strategy, you would anticipate that there should be different tailored strands focusing on the key areas or for those particular groups, of which, clearly, there should be one on women and girls, as there should for men and LGBT. That is where I can see some of the challenges.

Ms S Bradley: I believe that there is a duty on us to have this strategy, but a lot of work has gone into the gender neutralisation of the Bill, and rightly so when we teased all that out. I guess that there is an element of, "If it does not fit here, where does it fit and when will it ever happen?". I take that point. However, I wonder whether, when we go back to the terminology at the beginning of the Bill about relationships, it would ever do justice to the type of strategy and the breadth that the strategy would need to encompass. While I take Rachel's point that it is an opportunity to get it somewhere, the parameters of this Bill would be too restrictive to what, I imagine, that strategy would need to be.

Ms Dillon: May I make a suggestion?

The Chairperson (Mr Givan): Yes. Sorry, Linda.

Ms Dillon: I agree with a lot of what Rachel said, but I also see how it would jar with this legislation. I accept what you say, Paul, about how the current strategy should have different strands, but I am not sure that that goes far enough, because there needs to be a specific strategy around women and girls. Outside this, we could put a question as to the rationale behind why there is not one. That needs to be looked at. It is about violence against women and girls, so I do not see anything to prevent it being laid in Justice. The Committee should look at it, but I probably agree with the thinking that it does not fit in here. However, it is right that it was raised.

As a Committee, we should look at how to pursue a specific strategy around violence against women and girls. Regardless of the fact that what we looked at in the legislation made it gender-neutral — I agree that that was the right thing to do because we need to protect everybody — there is no doubt that there is a specific problem. We sometimes look at the data in the very broadest sense, which is what we did for this legislation, and it looks like it is right to make something gender-neutral, but when you look at other data and at the specifics of the number of victims of specific types of violence, you see that females are the greater number. That is the reality of the world that we live in. We need to put something in place to address that.

Ms S Bradley: I agree with that. It is not always in a domestic setting; it is so much wider.

The Chairperson (Mr Givan): I want to tease that out with Stephanie.

Doug mentioned parental alienation in respect of non-molestation orders and contact orders. You are right: that issue has been raised, and quite a lot of the individual witnesses who provided evidence raised that issue. What would we be considering around parental alienation by way of potential inclusion in this Bill?

Mr Beattie: Sorry, I do not know which Bill it is, but either the Scottish Bill or the English and Welsh Bill contains a clear clause that absolutely outlines it. That issue can be lost in the margins slightly, and it has a spin-off effect. If it is contained in the Domestic Abuse and Family Proceedings Bill, it will spin off into other places. When a contact order is given, that can be ignored, and that is one of the reasons why it needs to be contained and defined. I know an individual who has a contact order for full

access to his children but has not seen them in three years because somebody has been able to hide that in the legal system. If we can mention it and it becomes a defined offence to do that, we can deal with one problem. The issue is not gender-based, but it does affect a lot of men, and that is why I am looking to have it in there, though not as a list of things. I have got it in my mind's eye but just cannot find it, but there are three or four lines on that in one of those Bills.

The Chairperson (Mr Givan): We talked about this a couple of weeks ago with the Department, and it believes that clause 2 would deal with the offence of parental alienation when it comes to abusive behaviour/coercive control. This point is more that you get a contact order and that is not being followed. There is a cycle of going back to court to say, "I got a contact order, and it is being ignored". What greater sanction can be made available to give effect to that when it comes to contact orders, for example?

Mr Beattie: Ignoring a contact order could become an offence in itself and abuse in itself. We need to tease that out.

Mr Frew: I agree with that 100%. When the Domestic Abuse and Family Proceedings Bill was first mooted, most of the traffic that we got was people contacting us with regard to changing that law. For me, there are two aspects to this. The first is about contact orders and the misplacing of times or querying the venue and, "Oh, sorry, I went to the wrong venue". It really mucks up people's lives. You have prepared to take your child for the weekend and to pick him or her up on Friday, and they are not there, they are somewhere else, or you were to pick them up at school. There is all of that miscommunication, which is deliberate in a lot of cases.

The other piece is about using the court, itself, as a weapon. You have the scenario where one parent gets legal aid and the other does not. The parent with legal aid goes to court all the time, and it drains the resources of the other parent, who sometimes has responsibility for the child; it drains the family assets or savings. There is a potential conflict around access to justice, which we have to be mindful of, but I think that something needs to be put in here. I am not convinced yet that family proceedings and the other bits cover it at all; I do not believe that it does. For me, the struggle is trying to get something that I have in my head down on paper, but we need to do something.

Ms Dillon: I have concerns around that, and it comes down to how you put it in. I have worked with a number of people who have the same challenge, and it would break your heart. Fathers who genuinely love their children and want to be part of their lives are being blocked. Sometimes, it is through absolute maliciousness, but sometimes it is a genuine and absolute fear, from the parent who has the child, that the children will be in danger, even though the contact order has been put in place, and we accept that everything has been decided by a judge.

In general, I would say that the courts have looked at it, and you have to accept it, but, if you have a difficulty with the contact order, you need to go back to court and challenge it; you cannot just stop the child from seeing the other parent. That is always my advice on that. However, I also understand, as a parent, the absolute fear if somebody thinks that their child is danger. Most of us in the Committee are parents, and we all accept that.

For me, there is a real challenge on this one, because I am concerned that we would have unintended consequences. I would really like to hear what Stephanie has to say on this. That is accepting all of the issues that we have around trying to convince people to abide by their contact orders. It is cruel, and it is a form of abuse, in itself, without a doubt. However, I am really concerned about the unintended consequences. Currently, you could have a domestic abuse case going on in the criminal courts and the family courts not knowing about it. Therefore, you have the issue of judges making contact orders in the absence of all the information. I am concerned, for that reason as much as anything else. If all the information was more in alignment, you might have fewer of these issues.

Mr Beattie: Linda, you are right. I absolutely agree with everything that you said. That is why I feel that it needs to be named in the Bill. By naming it in the Bill, it indirectly forces people to create that sort of holistic way of dealing with this. I am always mindful that you still have to prove that it is domestic abuse. You are absolutely right that some of the contact denial may not be viewed as abuse; it might be a genuine concern. It has to be proven on two or three accounts. I see that burden of proof still being there. The point of it all being joined up, by putting it in the Bill, is that it helps to create that; people have that implied task where we have to create this as a joined-up approach. I have concerns as well, and, as Paul said, how do you put this down and what are the consequences of putting it in?

Miss Woods: I share Linda's concerns about parental alienation. You have to tease out the detail and flip it on its head, because it could have unintended consequences for the people whom we are talking about trying to protect.

The Gillen review recommended that the judiciary consider child contact orders. Has the judiciary considered that? The technical amendment that we looked at last week has something to do with child contact orders in the family courts. Perhaps, we are coming on to that, but we need to discuss it. Is it enough? Is it technical? Could anything else be added to it?

Paul, I am glad that you mentioned legal aid. If we are going to be serious about taking financial abuse as a form of domestic abuse, we need to be mindful of the fact that it might, on paper and on means testing, look as if someone is loaded, but, if the coercive control and domestic abuse of that person is purely financial, they will not have access to that money. We need to look at the financial eligibility of legal aid. I know that it is a touchy subject for some people, but if we are going to consider financial abuse in the context of the Bill, we cannot tell someone who, it seems, on paper, is beyond the threshold for access to legal aid that they cannot get it, in the context of financial abuse. We need to consider that. Is there an exemption of means-testing with regard to legal aid in the context of domestic abuse? I am mindful that it could be open to abuse, but it needs to be looked at if we are going to drill down into financial abuse. I know that it is hugely relevant to older people, as stated by COPNI. A huge amount of such abuse is going on in families and would fall within the Bill. Can we look at that area and at access to justice for victims of domestic abuse who are not getting enough support in the legal system because, on paper, it looks as if they have money, because they might not?

The Chairperson (Mr Givan): Rachel, you also mentioned equality screening and queried whether this was properly equality screened. Do you want to write to get clarity on that? I am not sure that it is a legislative amendment issue.

Miss Woods: No, this is not a legislative amendment. There is a lot in the further equality screening section. It states that the consultation policy proposals no longer stand and the Department could have breached its section 75 duties. That is a big claim. We should get more information from the Department in response to that. It mentions the Children Order and the health and social care adoption Bill, but I do not think that the specific query over the consultation on the policy proposals and section 75 screening stands in relation to the Department's response.

The Chairperson (Mr Givan): I have 16 issues to go through with Stephanie. I suggest that we take a comfort break for 10 minutes to allow Christine and Stephanie to go through those so that I can get some structure to the closed session.

Mr Frew: Linda talked about teasing this out with Stephanie. I think that we have teased Stephanie.
[Laughter.]

The Chairperson (Mr Givan): We will reconvene at 12.15 pm.