



**Briefing for Scottish Parliament  
Debate:  
Domestic Abuse Bill Stage 3  
1st February 2018**

**Key Points**

- As Scotland's national children's charity, Children 1st unequivocally recognises the need for the Domestic Abuse Bill and strongly supports the Bill's intention to provide protections for victims of domestic abuse, including children and young people.
- Children 1st welcome the explicit recognition of children on the face of the Bill and the introduction of the aggravator in relation to a child.
- We also warmly welcome the amendments relating to Non- Harassment Orders (NHOs) that seek to ensure that NHOs in domestic abuse cases are able to offer protection to children in addition to adults, and that the duty on the Court to consider whether this protection is needed would also apply to children.
- We welcome the amendments at Stage 3 that aim to increase information and data collection about the implementation of NHOs and use of the aggravator relating to children and the amendment to clarify that witnesses include witnesses who are children.
- Children 1st continue to believe that there is a need to ensure Scots Law recognises a child as a victim of domestic abuse in their own right within the context of the abusive relationship and we look forward to working with the Scottish Government going forward to address this.
- We are also keen to work with the Government to improve connections between criminal, civil and child protection systems around the adult and child victim, with particular regard to contact orders to ensure children's rights are taken into account.
- Finally, we highlight the urgent need to consider ways to ensure the rights of children who give evidence are protected, including by the development of a Scottish model of the Children's House ('Barnahus').

Children 1st is Scotland's national children's charity. We have over 130 years of experience of working along alongside families to provide relationship- based support when they need it and to help children and families to recover from the trauma associated with childhood adversity. Through our work we see the far- reaching and long-term impacts of psychological and physical domestic abuse on children and their families.

Children 1st therefore strongly supports the need for the Domestic Abuse Bill to better recognise the complex dynamics of domestic abuse by creating a new offence of abusive behaviour towards a person's partner or ex-partner which covers both physical violence and non-physical abuse. We believe that this Bill is a crucial step towards understanding and tackling all forms of violence against women and children and in recognising the psychological and emotional impact of coercive control. We pay tribute to the survivors of domestic abuse, including the many children and young people who have bravely told their stories, or are yet to speak out, whose experiences shaped the progression of this vital legislation.

The Bill's recognition that abuse can be both physical and non-physical and that violence can be emotional and psychological is an important part of the culture change that is required across the judicial, health and social care sectors. We are confident that this change in legislation will address the gap in current law which fails to protect people from coercive control, while also supporting the much needed cultural shift in public and professional understanding of the dynamics and impacts of domestic abuse. We hope this is the beginning of a wider cultural shift, which will be driven by widespread public awareness- raising and broad ranging professional training about the dynamics and impact of domestic abuse.

We highlight the following areas for consideration going forward.

### **The impact of domestic abuse on children**

Children 1st welcomes the Domestic Abuse Bill as a crucial step towards understanding and tackling all forms of violence against women and children and in recognising the psychological and emotional impact of coercive control. We are fully supportive of the introduction of the (recently strengthened) aggravator, which recognises when children may be involved and we welcome the recent amendments regarding Non- Harassment Orders and children.

However, as we expressed in our oral and written evidence on the Bill, Children 1st and partners remain concerned that there has not yet been clear recognition in law that where children live in a family where there is domestic abuse, they will also be victims of that domestic abuse. Domestic abuse has been a ground for referral to Children's Hearings since 2011 and the Guidance for Child Protection in Scotland, 2014 states that, "*domestic abuse can profoundly disrupt a child's environment, in undermining their stability and damaging their physical, mental and emotional health.*" A range of studies, including by the BMA, document how tactics of violence and abuse, from pregnancy onwards, can severely disrupt the relationship between mother and infant, undermine the mother/child connection and compromise the strongest protective factor that can mitigate against children experiencing poor outcomes.

In the absence of an offence in Scots Law we remain concerned that failing to recognise children as victims of coercive and controlling behaviour within law will make children less visible to services and place them at greater risk of continued abuse by the perpetrator. Domestic abuse is separate to the types of abuse currently set out in Scottish legislation, and we think it is important to ensure that children and young people who experience domestic abuse are protected.

We understand that these concerns will be taken forward in the context of wider child protection work and that there may be alternative legislative vehicles to progress this issue. However, we would seek assurances from the Scottish Government that introducing separate legislation would not increase the potential for non-abusing parents to be criminalised, if it sits outside domestic abuse legislation and the gendered analysis of the current Bill.

Finally, we warmly welcome the Stage 3 amendments relating to data collection in order to monitor the provisions and implementation of the Bill.

### **Access to trauma recovery**

There is a growing body of evidence relating to the impact of trauma and the way in which Adverse Childhood Experiences (ACEs) can impact on later life. Children have a right to recovery, as set out in Article 39 of the UNCRC—the right support at the right time can prevent problems from escalating, build resilience and help children and families to rebuild their lives.

However, Children 1st are concerned about the lack of investment in accessible, appropriate, compassionate and trauma- informed support—many of our services have insecure funding and waiting lists and we know that the provision of abuse and trauma recovery services across Scotland is inconsistent. NSPCC Scotland's recent report 'The Right to Recover' explored the provision of therapeutic services of children following sexual abuse, finding that there are significant and alarming gaps in service provision. For example, in 15 out of 17 local authorities there are no specialist services for children under the age of five. In 11 out of 17 local authorities primary age children have no access to specialist services.

As the Domestic Abuse Bill enters into law there must be adequate support available for those children and families who need it, and we must also work towards ensuring that our universal services are trauma- informed and are able to fully support those who have experienced domestic abuse.

## **Child witnesses and the 'Bairns House'**

Children 1st have been raising concerns about the inadequate support for child victims and witnesses and the inappropriate way the current justice system re-traumatises children and young people for a significant period of time.

Although progress has been made in terms of the introduction of special measures for vulnerable witnesses, their use is inconsistent and the children and families that we work with experience lengthy waits, stressful and triggering cross examinations, a lack of support to recover and significant violations of their rights.

Children 1st have a joint action in the Equally Safe delivery plan with the Scottish Government to "consider the application of lessons from various international examples of the 'Barnahus' (children's house) concept for child victims in criminal justice cases and how these could potentially apply within the Scottish context." We look forward to working on this action and to considering how child victims of domestic abuse could benefit from a Children's House in Scotland. Plans are already underway to consider pilot projects in Scotland and we encourage members to support these measures in order to keep momentum, given the urgent need for change.

**For further information about this briefing please contact Chloe Riddell at [chloe.riddell@children1st.org.uk](mailto:chloe.riddell@children1st.org.uk)**