

# Written Evidence

## Prevention of Domestic Abuse (Scotland) Bill

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## Introduction

The Law Society of Scotland is the professional body for over 13,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

Our Criminal Law Committee welcomes the opportunity to consider and respond to the Scottish Parliament's Criminal Justice Committee's call for views on the Prevention of Domestic Abuse (Scotland) Bill<sup>1</sup>. The Committee has the following comments to put forward for consideration.

## Call for views questions

### Question 1: Notification requirements and monitoring of Domestic Abuse Offenders

The Bill proposes to introduce notification and monitoring requirements for certain people convicted of domestic abuse. They would be required to tell the police about things like their home address and other addresses they regularly stay at, their passport details and if they change their name. Police would also be able to visit and monitor them.

#### What are your views on this proposal?

We consider that extending the notification and monitoring requirements for domestic abuse offenders is a matter for the Scottish Parliament. Our views will be focused on the practical consequences of a such proposal, if introduced.

We appreciate the proposal may contribute to managing the risk that some convicted people represent to victims and communities. However, as drafted, we have the following concerns:

We note that notification requirements would be imposed for people convicted on indictment for offences involving domestic abuse. These requirements would be applicable to offenders convicted on indictment to a sentence of imprisonment of at least 12 months, when the person is released; or when the offender is subject

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<sup>1</sup> [Prevention of Domestic Abuse \(Scotland\) Bill call for views \(parliament.scot\)](https://www.parliament.scot/bills/2019/1/prevention-of-domestic-abuse-scotland-bill)

to a community payback order imposed under section 227A of the Criminal Procedure (Scotland) Act 1995 with a supervision requirement.

For the purposes of Part 1 of the Bill, an offence involving domestic abuse means:

- An offence under section 1(1) of the Domestic Abuse (Scotland) Act 2018,
- An offence under section 17 of the Domestic Abuse (Protection) (Scotland) Act 2021
- Aggravated offences under section 1 (1)(a) of the Abusive Behaviour and Sexual Harm (Scotland) Act.

In our view, the definition of “offence involving domestic abuse” should be reviewed for two reasons.

Firstly, not all of the circumstances defined in section 1(2) of the Bill cover behaviours committed against ex partners. That would be the case for offences under section 1(1) of the Domestic Abuse (Scotland) Act 2018, but that is not always the case.

Secondly, the definition proposed would capture a large number of individuals, including those who may, in reality, pose no appreciable risk to others.

A more precise definition of “offences involving domestic abuse” is critical in terms of resources. The Independent Review into the Police-led Management of Registered Sex Offenders in the Community has indicated:

“The notification scheme has now grown to such extent that the opportunity cost of maintaining its bureaucracy set against the reality of the benefits is too great”<sup>2</sup>.

While the conclusions of the review are only applicable to England and Wales, we are of the view that such evidence should be considered when expanding the notification and monitoring requirements for domestic abuse cases in Scotland.

We consider that the proposed provisions in Part 1 could create a real risk of labelling people as inherently dangerous. We are concerned that such label is imposed on people involved in a single incident that do not represent a high risk for victims and communities.

In our view, a higher threshold for registration would produce a more meaningful register – one involving the most serious offenders, where the risk is likely to be greater.

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<sup>2</sup> [Independent Review into the Police-led Management of Registered Sex Offenders in the Community: Executive Summary \(2022\) \(gov.uk\)](#) Para. 50

We suggest consideration of the impact that registration requirements have on guilty pleas, which are critical for the sustainability of the system, resulting in only a proportion of cases going to trial. We are aware that one of the main barriers to obtaining guilty pleas in sexual offences is registration requirement in the Sexual Offender Register. Accordingly, we can anticipate that if such a requirement is introduced for domestic abuse offenders, more cases will go to trial, making it more likely that complainers will need to give evidence. This will also have an impact on resources.

Finally, we appreciate that proposed provisions in Part 1 have involved significant costs associated with maintaining and policing the register. We are concerned that other services -such as rehabilitation- may be affected or restricted. If that is the case, we consider that proposed provisions could produce a counterproductive effect.

## Question 2: Risk Notifications

The [Disclosure Scheme for Domestic Abuse Scotland](#) gives people the right to ask if someone has a history of domestic abuse and lets the police tell people that they may be at risk without being asked. The Bill does not make any changes to this disclosure scheme.

2.1. Do you think the provisions in the Bill will mean that more disclosures will be made under this scheme?

2.2. Could the Bill do more in terms of enabling the disclosure of someone's history of domestic abuse?

Notwithstanding the fact that no changes to the disclosure scheme are proposed, there is a risk that an obligation to register may have the effect of making charges appear more serious, thereby impacting on individuals' future prospects, including the risk of PVG listing, etc.

## Question 3: Rehabilitation and Behaviour Change Programmes

The Bill proposes a power to require certain people who are convicted of domestic abuse offences to be assessed to see if they are suitable to take part in rehabilitation or behaviour change programmes, such as those designed to address violent or controlling behaviour, and that courts, prison throughcare and the Parole Board should take account of this.

3.1. What are your views on this proposal?

3.2. Can these types of programmes be effective in reducing harm?

3.3. What kinds of support or follow-up are needed to make them meaningful?

3.4. Are there currently enough programmes and services in place that if someone is assessed as suitable that they could be provided?

We support better rehabilitation services. However, while we appreciate the value of meaningful rehabilitation programmes, we also understand that resources will be required for their implementation. A consistent approach to rehabilitation programmes would benefit offenders and communities but careful consideration should be given to the resource implications that they will involve.

We consider that the evidence on the effectiveness of rehabilitation programmes for domestic abuse in Scotland is outdated. We note that the latest evaluation of the Caledonian System was published in 2016<sup>3</sup>. Updated data would be helpful to analyse the impact that rehabilitation programmes have on domestic abuse offenders.

## Question 4: Data collection and reporting

The Bill would require Police Scotland, the Crown Office and Procurator Fiscal Service (COPFS), and charities supporting victims of domestic abuse to collect certain data about victims, and the Scottish Government to then report on it annually. The data would include if they had a disability and their ethnicity. The Scottish Government would also have to produce an annual report on access to services for people affected by domestic abuse. This might include services like advocacy, safe housing, mental health support or legal help.

4.1. Do you support this proposal?

4.2. Is the data the Bill requires to be collected the right information that is needed?

This includes information on victims' age, sex, nationality, ethnic or national origins, and if they have a disability or have been a child looked after by a local authority.

4.3. How could this help improve support for victim-survivors?

We have some concerns regarding the proposal. In our view, the Scottish Government already has important data on domestic abuse cases. When collecting sensitive information, special provisions must be taken to secure and

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<sup>3</sup> [Caledonian System Evaluation: Analysis of a programme for tackling domestic abuse in Scotland \(gov.scot\)](https://www.gov.scot/publications/caledonian-system-evaluation/analysis-of-a-programme-for-tackling-domestic-abuse-in-scotland/pages/12.aspx)

manage the data collected. This will require resources in from all parties involved in the process of gathering such information.

We note that the focus of the data collection is alleged victims of offences involving domestic abuse. We wonder whether it would be more useful to analyse data regarding the offence itself rather than the complainers' characteristics.

## Question 5: Domestic Abuse Education in Schools

The Bill proposes that education about domestic abuse and healthy relationships should be provided in all schools, with the option for parents to withdraw their child from this.

5.1. What are your views on this proposal?

5.2. At what age should this education begin?

5.3. What topics should be covered to make it meaningful and inclusive?

5.4. How can we ensure this is delivered in a way that is safe and appropriate for all pupils?

We consider that other organisations will be better placed to comment on this aspect.

## Question 6 : Support for victim-survivors and their families

The Bill does not directly change how support services are delivered, but it does aim to improve information and prevention.

6.1. Do you think this Bill goes far enough in addressing the needs of people affected by domestic abuse?

6.2. What else could be included to strengthen support for victim-survivors, children and families?

We consider that other organisations will be better placed to comment on this aspect.

## Question 7: Concerns about privacy, policing or human rights

Some people may have concerns about how the notification requirements and monitoring of domestic abuse offenders could affect people's rights - for example, around privacy or data protection.

7.1. Do you have any concerns about the human rights or equality implications of the Bill?

7.2. Are there groups of people who might be affected in ways that should be carefully considered (e.g. racialised communities, disabled people, LGBTQ+ people)?

We do not have a view on this question.

## Question 8: Practical considerations and resources

Implementing the notification requirements and monitoring, rehabilitation programmes and school education would all require resources, training and support.

8.1. Do you have any views on the practical challenges or resource implications of this Bill?

8.2. Are there specific areas (e.g. rural policing, schools, the third sector) where support would be especially needed?

Please see our answers to questions 1 and 3.

## Question 9: Anything else

9.1. Do you have any other comments or concerns about the proposals in this Bill that haven't already been covered?

We do not have anything else to add.



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