

We want to know:

The Committee welcomes your views on any issue relating to the Bill. This could include views on any of the following areas or questions:

Support for the Bill in general and the main provisions

1. Do you agree that a senior police officer should be able to impose a short-term Domestic Abuse Protection Notice (DAPN), without first seeking court approval, as proposed in sections 4-7 of the Bill? If so, what advantages would a DAPN have over the existing police and court powers?

Yes. Use of the Domestic Abuse Protection Notice would allow for significant protective measures to be put in place until it would be possible to apply for these via the Courts. The step might be taken by the police as urgently as necessary – for example at night.

2. Do you agree that the civil courts should be given powers to make a Domestic Abuse Protection Order (DAPO), as proposed in section 8-16 of the Bill? If so, what advantages would a DAPO have over the existing police and court powers?

Yes, Social Work Scotland agree with such powers, which would allow the Court to tailor the DAPO to the specific requirements of the case under consideration.

- It is likely to be protective of a woman who is at heightened risk of punitive action by the abuser if she takes the initiative, in that that an DAPO would not be sought by the woman but by those taking on responsibility to protect her.
- The use of an DAPO could give some much needed space in which a woman could be supported in consideration of safety and options for herself and her child(ren).
- Social Work Scotland recognise that domestic abuse is the major cause of known women's homelessness in Scotland. There are likely to be many instances of homelessness caused by domestic abuse that are not recorded as such. It is contrary to the rights, safety and wellbeing of women and children to be be pressured to leaving their home and move to refuges or temporary homeless accommodation for lack of alternative options. We therefore believe this step to be a practical support for one dimension of Scotland's Homelessness action plan, Ending Homelessness Together.
- Lack of recourse to Legal Aid would not prevent a woman being protected by such an order.
- DAPOs would be congruent with Scotland's Equally Safe strategy
- DAPOs would be compliant with the European Convention on Human Rights ("ECHR") Articles 2, 3.
- DAPOs would be in line with expectations within the Council of Europe Convention on Combating Violence Against Women and Domestic Violence (the Istanbul Convention), for example within Article 52, which recommends that parties to the Convention have provisions for DAPOs.

Extension of the provisions to other types of family relationship or circumstance

3. Section 1 of the Bill requires the two people covered by the DAPN or DAPO to be spouses, civil partners or in an 'intimate personal relationship' with each other. In addition, the suspected perpetrator must be aged 18 or over and the person at risk must be 16 or over. Do you agree with this overall approach or do you wish to suggest any changes? In the Domestic Abuse Bill, that is currently making its way through the UK Parliament, a broader approach is proposed for England and Wales, extending to other family relationships and people sharing a house in other circumstances.

Social Work Scotland agree with this approach.

Other protective action may be supported by other legislation such Children's Hearings (Scotland) Act 2011 for children and the Adult Support and Protection Act (2007) for vulnerable adults.

The Domestic Abuse (Scotland) Act 2018 does also provide for protection of children living in the house.

Processes to be used for imposing a notice or granting of an order, timescales and the role of the police

4. Under section 8 of the Bill only police officers would be able to apply to the court for a DAPO. Do you agree with this approach or do you think the power to apply should be extended to other individuals or organisations? If the latter, who would you wish to include?

Social Work Scotland agree with this approach.

5. Do you agree with the tests (set out in section 4 and section 8 of the Bill) which must be satisfied for the making of a DAPN and a DAPO respectively?

Social Work Scotland agree with these tests.

6. Do you support the definition of 'abusive behaviour' (in sections 2 and 3) which is a key component of those tests?

Yes. This definition is helpful in that it recognises the complexity of domestic abuse.

7. Under the Bill, a DAPN lasts until a DAPO (or interim DAPO) is made. A DAPO can last for a maximum of three months. Do you agree with the proposed maximum periods the DAPN and DAPO can last for?

Consultation within Social Work Scotland has not led to categorical views on the appropriate maximum length of a DAPO, which is affected by variables such as the length of time it may take for other remedies to be considered, applied for and heard; the need to avoid potential gaps in protective provision if they are needed; while at the same time protecting rights of the barred person and ensuring fair process for all.

8. Do you agree that breach of a DAPN and breach of a DAPO should be a criminal offence, as proposed in sections 7 and 12 of the Bill? Do you support the penalties proposed for breach of a DAPN and breach of a DAPO?

Social Work Scotland agree that a breach should be a criminal offence. Views have not been expressed on the proposed penalties.

The content of the notice and order – including how the Bill impacts children

9. Sections 5 and 9 of the Bill says which obligations a DAPN and a DAPO can include. As well as obligations relating to the person at risk's home and contact with the person at risk, both a DAPN and a DAPO can impose obligations relating to a child usually living with a person at risk. Do you agree with the approach of the Bill under sections 5 and 9 or do you wish to suggest any changes?

Social Work Scotland agree with the approach of the Bill.

10. Do you think the Bill is clear about what should happen when the terms of a notice or order conflicts with an order relating to children imposed under family law?

This could be made explicit. The need to take in to consideration the welfare of any child whose interests are affected is made clear

Removal of a domestic abuse perpetrator's interest in a Scottish secure tenancy

11. Do you agree with the approach in section 18 of the Bill, introducing an additional ground to end a social housing tenant's interest in a tenancy? If so, what benefits does this power have over and above existing statutory powers?

Yes. We consider it probable that, as intended, this will reduce the risk of a person at risk having to make themselves homeless in order to escape abuse from someone living with them and to give them interim protection so that they have time to seek longer term remedies if needed. We recognise that this will work by giving social landlords new powers to apply to the court to end the tenancy interests of the perpetrator if the perpetrator is a sole tenant, a joint tenant with the victim, or a joint tenant with the victim and others. Survivors of abuse should therefore be able to continue to live in the family home.

Additional issues not covered by the above

Your response does not need to cover all of these areas and you can focus on those that are relevant to you or your organisation. Also, you are welcome to cover other areas in your submission that you think are relevant to the Committee's consideration of the Bill.

12. If you are responding on behalf of an organisation, what impact (if any) would the Bill have on your organisation? Is there any issue associated with the Bill you wish to comment on, not already covered by questions 1-9?

There is likely to be an added flow of direct family social work follow up contact which could be triggered and immediate assessment or support needs which were not previously obvious. This would be positive as it brings those needs to the fore, but there could be associated resource implications.