



What are we going to do?

Create a new offence of domestic abuse for Northern Ireland, which will capture patterns of psychological and/or physical abuse perpetrated in an intimate or family relationship.

Key quote

“The inclusion in the Bill of a domestic abuse offence for Northern Ireland will ensure that we can continue to protect victims and survivors of domestic abuse in Northern Ireland, in the absence of a local Assembly.”

Peter May - Permanent Secretary, Department of Justice Northern Ireland

How are we going to do it?

- The Bill’s provisions will make it an offence in Northern Ireland for an individual to engage in a **course of abusive behaviour** against someone who they are “personally connected” to.
- Two people are **personally connected** if they are, or have been, married or in a civil partnership or they live together (or have lived together) as if they were married or in a civil partnership. Two people would also be personally connected if they are, or have been, in an intimate personal relationship with each other or are family members.
- The offence will cover behaviour that is abusive because it is **controlling or coercive** or amounts to **psychological, emotional or financial abuse** of the other person.
- Abusive behaviour will also include behaviour that is **physically violent, threatening or intimidating**.
- Abuse against a child by a person who has **parental responsibility** for that child is **excluded** from the scope of the offence, but an offence may be committed where a person makes use of a third party (including their child) to abuse another person.
- The offence will otherwise apply to both adults and those under 18.
- The provisions will apply where the **behaviour is intentional, or reckless**, as to its effect.
- **Harm would not have to be caused**, rather an offence will be committed where a reasonable person would consider the behaviour likely to cause harm.
- A **defence** may be that the **behaviour in the particular circumstances** of the case is deemed to be **reasonable** (for example, to ensure the safety of a spouse with dementia).
- An **aggravation** will apply to the domestic abuse offence where a child is involved – where they **see, hear or are present or they are used to abuse the connected person** – enabling the sentencing to be increased up to the maximum available.
- **Extra-territorial jurisdiction** will apply, meaning that abusive behaviour committed abroad may be brought within the remit of the domestic abuse offence to further protect victims.



How we are going to do it (continued)

- **Alternative offences** are available where a person is not convicted of the domestic abuse offence (under harassment legislation).
- The Bill provides for a range of measures associated with the offence in Northern Ireland, to reduce the potential for an individual to be further **victimised** during criminal proceedings, including:
 - * the **personal relationship** between two individuals being taken as **established** unless it challenged;
 - * **prohibiting cross-examination** of a victim **by the accused**;
 - * **automatic eligibility for consideration of special measures** (for example, giving evidence via a video link or behind a screen), where this relates to the domestic abuse offence; and
 - * providing that the **accused cannot ask for trial by jury** (for the case to be taken to Crown Court) in summary proceedings.
- The maximum sentence available will be **12 months' imprisonment on conviction in a magistrates' court** and **14 years' imprisonment on conviction in the Crown Court**. A fine may also be imposed.
- **Guidance** will be issued around the investigation of the offence.



Background

In April 2016, the Department of Justice in Northern Ireland consulted on whether a specific offence should be created for Northern Ireland that captures patterns of psychological and emotional domestic abuse (often called controlling or coercive behaviour).

Overwhelmingly, respondents supported a change which would criminalise domestic abuse in all forms and recognise its repetitive nature in law.

The Department of Justice worked closely with partners in the voluntary, community and statutory sectors to prepare a draft Assembly Bill to meet the specific needs of Northern Ireland.

While the preference would be to legislate through the Northern Ireland Assembly, if that was possible, to continue to protect victims and survivors of domestic abuse in Northern Ireland and secure compliance with the Istanbul Convention, a domestic abuse offence for Northern Ireland is included in the Domestic Abuse Bill, as well as extra-territorial jurisdiction for this and other offences (including sexual offences and harassment).

Why is a domestic abuse offence needed?

- The Department of Justice in Northern Ireland sought views, in April 2016, about the need for a specific domestic abuse offence. During consultation victims and survivors considered that their experience was not fully reflected in existing law.
- Overwhelmingly, respondents called for a change to criminalise domestic abuse in all forms and to recognise its repetitive nature in law.
- The new offence will capture a course of psychological or physical abuse against a partner, former partner or close family member. This recognises that domestic abuse is not just physical.

How does this compare to the controlling and coercive behaviour offence in England and Wales?

- Similar to England and Wales, the new Offence would capture patterns of psychological abuse, but unlike the England and Wales offence also expressly captures patterns of physical abuse.
- Respondents to the public consultation considered that the Northern Ireland Domestic abuse offence should encapsulate situations where ex-partners are continuing to exert coercive control over their victim, even if they no longer live together. The offence has consequently been drafted to include ex-partners who are no longer living together.
- Perpetrators should not escape justice where abusive behaviours have been 'normalised'. The offence has therefore been framed that the partner/connected person would not need to have actually suffered harm for the offence to be committed.



- The offence also applies to those under the age of 18, in line with the Northern Ireland domestic and sexual violence strategy definition which does not apply an age limit

Is this is same as the domestic abuse offence in Scotland?

- The offence has been tailored to meet the specific needs of Northern Ireland and is aligned to the definition set out in the cross-cutting seven year strategy. For example, it would include familial abuse, which is wider than the Scottish offence.

How did you decide on the appropriate penalty?

- In setting the penalty, a range of offences that are already in place in Northern Ireland and the penalties that are associated with them were considered.
- The need to ensure that domestic violence and abuse is seen as a serious crime that will warrant a significant sentence was also considered.
- Naturally the maximum sentence will be reserved for the most serious of cases. While it could relate to an offence that is entirely one of psychological abuse, which may have occurred over a significant number of years, it is more likely to relate to a course of behaviour that includes both physical and psychological abuse.

Will the full range of potential offences come under this offence?

- In particular circumstances, for example, where rape or attempted murder is part of a pattern of behaviour, the accused could be charged with the domestic abuse offence and rape or attempted murder. This would be a matter for Public Prosecution Service.
- It is important that the charges, and if convicted the criminal record of the offender, reflect the breadth and seriousness of offending.

Key facts

- In the 12 months from 1 April 2018 to 31 March 2019:
- There were 31,682 domestic abuse incidents recorded by the police in Northern Ireland, an increase of 1,769 (5.9%) on the previous 12 months and the highest financial year figure recorded since the start of the data series in 2004/05.
- The number of domestic abuse crimes recorded by the police reached 16,182, an increase of 1,652 (11.4%) on the previous 12 months and the highest financial year figure recorded since 2004/05.
- There were 17 domestic abuse incidents and 9 domestic abuse crimes per 1,000 population, compared with 16 domestic abuse incidents and 8 domestic abuse crimes during the previous 12 months.
- Domestic abuse crimes represented 16.0% of all police recorded crime, increasing from 14.8% during the previous 12 months.
- There were four murders with a domestic abuse motivation, compared with eleven during 2017/18.
- The largest volume increase in domestic abuse crimes was seen in offences of harassment which increased by 615 (58.5%), followed by violence with injury which increased by 414 (10.2%).