

## **Tips and Guidance Isle of Man Domestic Abuse /Coercive control Bill – consultation:**

Link: <https://consult.gov.im/>

*From here, scroll down and click on Criminal Justice, Offender Management, Sentencing & Domestic Abuse, then in the 'give us your views' box, online survey. (The actual Bill & associated documents are available to read in links below this, or by clicking on "Related info" boxes within the survey itself).*

### **Tips 1:**

You don't need to answer every question or read everything on the consultation Hub, unless you want to. You can complete the introduction (4 questions) and then skip straight to the domestic abuse questions (6 questions).

### **Tip 2:**

You don't have to stick to only answering the questions, you can use the comments boxes to raise any points that you have concerns about or don't feel have been covered by this Bill.

### **Tip 3:**

You don't have to answer it all at once – you can save your answers at any time and come back to them later (you will get an email with the link to your part-completed form).

### **THE QUESTIONS & POINTS WE'D LIKE PEOPLE TO MAKE WHEN COMMENTING:**

**First of all, We feel the name of this Bill is a problem.** (1) It sounds like domestic abuse is not considered important and is tacked on at the end of something else. (2). "Diversion of Offenders" probably doesn't mean anything to most people. (3) What it means is a proposal to divert offenders away from Jail and instead use more fines and cautions. This is surely the OPPOSITE of what we want to achieve for domestic abuse and coercive control? To attach DV to this Diversion Bill seems particularly inappropriate.

**Domestic Violence and Coercive Control should be important enough to have their own separate Law:** Putting two entirely different and separate issues into one Law always gives the potential for muddled thinking, and weak law. The problem in the UK with combined laws is they always end up opting for the lesser charge – ie in this case we will end up with fines. Two issues together water one another down and add confusion. Let's keep the issues separate!

### **Course of Behaviour, not "incidents":**

**Because it is copied from the English law, the IoM draft Bill remains incident-focussed – this is outdated thinking. A big problem in England and on the Isle of Man at present, is that the person is prosecuted for an "incident" or a few incidents. Coercive control and domestic abuse are ongoing patterns of behaviour that have a cumulative effect on the victim. It can't be properly addressed if we only look at specific "incidents". Victims also don't experience abuse as "incidents" . We need a law that reflects the experience of victims by not focussing on a few specific assaults but on the long-term, repeated**

**nature of domestic abuse and the severe ongoing impact of that.** The Scottish Law has been described as the “gold standard” because it sees abuse as a “Course of Conduct” – we need something more like that.

**This Bill is copied from English Law which does not cover post-separation violence**, which needs to be pursued under other laws such as stalking/harassment. **This is wrong – it is all one situation, same perpetrator, same victim**, needs to be covered under one Law. Separating abuse that happens after separation from that that occurs prior prevents Courts seeing the full pattern and also sends out the wrong message. Leaving does not end abuse and the most dangerous time for a victim is separation and after – 75% DV homicides occur in the year AFTER a victim leaves – post separation violence/threats need to be recognised by the IoM law.

### **Q 7 asks whether the definition of coercive control given in the Bill is**

**clear.** (for example the definition uses words like “repeatedly” – is this adequate? The definition says Coercive Control is “repeatedly or continuously behaving in a manner that is coercive or controlling – it doesn’t actually define what coercive & controlling is. Is this even a definition?) Please mention pattern/course of behaviour not incidents in your comments on the definition of Coercive Control.

This is the definition given by researcher Evan Stark, and this is the definition on which the Scottish Law domestic abuse law is based:

*It is a pattern of behaviour which seeks to take away the victim’s liberty or freedom, to strip away their sense of self. It is not just women’s bodily integrity which is violated but also their human rights. The perpetrator creates a world in which the victim is constantly monitored and criticised; every move is checked against an unpredictable, ever-changing ‘rule-book’. Experiencing coercive control is like being taken hostage; the victim becomes captive in an unreal world created by the partner/abuser, entrapped in a world of confusion, contradiction and fear. Surveillance continues even when the perpetrator is not present (constant phone calls or texts, using children to report on movement etc).*

In our opinion the wording in this whole Bill is not clear enough – for example the police must take “reasonable steps” to inform and consult victims – what is “reasonable”? who decides? The Department “must consult such persons as the Department considers appropriate” – who?

This all seems rather sloppy. They seem to have their numbering wrong – there is no clause 49 and we think where they talk of the definition in Clause 48, they actually mean 47. What is the difference between Qus 8 and 9 (see below)? – isn’t this duplication? We might comment that this seems to have been put together without sufficient care and attention.

Contrastingly the Welsh domestic abuse Law places a very clear obligation on the Welsh Government to produce a National Strategy/Action Plan on domestic abuse with clear targets and clear plans for achieving these targets; to provide training, to raise public awareness, to provide abuse education for children and young people, and the Welsh Legislation also places an obligation on the Welsh government to produce an Annual report to show how the government has made progress towards these targets. We need similar commitment, clarity and obligation in the IoM Bill.

### **Sentencing:**

We campaigned for tougher sentences in domestic abuse cases and a greater understanding of the effect of abuse on victims. **This draft Bill is modelled on English Law which has a max**

**5 year sentence.** We would rather it was closer to the 12 years which is the max sentence under Scottish Law.

**Questions 8 and 9 will ask you whether the Law should look at producing sentencing guidelines and giving Courts guidance on sentencing – please say yes!!** Also please ask that the Law requires mandatory training for police, juries and judges around domestic and sexual violence and/or the use of expert witnesses who can explain abuse and its effects. Judge and Jury should understand the DASH checklist and the significance of red flags like strangulation, cruelty to animals, presence of children and step children.

Please state that domestic violence cases should not be going to Magistrates Court!

**Question 10 will ask you if 5 years' maximum sentence is long enough. Please say no!! (you will be given a list of options for how long you think would be long enough).** Domestic violence is long-lasting and cumulative: victims consistently say they are living with the effects for a life time. It is domestic terrorism – sentencing needs to reflect this damage. A decent definition (see above) will help sentencers to take this seriously.

**Question 11 will ask you if you think Domestic violence should have its own separate law. Please say yes!!** .

**Question 12 basically asks for any other ideas.** We suggest that if you haven't already mentioned the following in your responses, this is a good place to do so:

a) **Budget & Training: see the "Impact Statement" document at the Consultation Hub** – this states there will be zero cost to this Bill (because instead of going to jail people will be being cautioned and fined) (1) as stated, the diversion to fines etc is a problem, and **if the law is effective we should see more prosecutions, more convictions, more court time, more jail time so there should be a cost** (2) we have stressed and campaigned that there needs to be training of police and judiciary. **The fact that this Bill is to have zero cost suggests there is no commitment to and no Budget for training.** UK Police experts have told us that the **number 1 reason that the English law has been so ineffective (only 8 successful convictions in 3 years) is that UK police have little or no training** in domestic abuse or coercive control and no training in applying the new law. Long term this legislation will be very cost effective due to savings in health, mental health, days missed from work etc, but upfront **there needs to be a cost and an investment.**

b) **Victimless Prosecution essential: Standard of evidence:** on the IoM far too many cases are abandoned, never prosecuted, or reduced due to "lack of evidence". **We need clarity on what will constitute evidence under this new law and training for the police in understanding/interpreting evidence (eg phone logs, bank statements, medical records, behaviour patterns).** Police on the IoM already have powers to prosecute Domestic abuse without a victim being willing to give evidence or even a statement. The reality is that they rarely, if ever, do so as the victim's statement is seen as the main (and essential) evidence. In no other crime is this the case - police investigate an allegation, police find the evidence. **The new Bill**

**needs to emphasise that the onus is on the Police to take a case forward, not the victim.** We suggest **guidance and training for the police in what constitutes evidence, and how to interpret it** would make victimless prosecution possible. **Again, the Scottish legislation addresses this and could usefully inform the IoM legislation. We suggest use of body cams should be standard** on DV call outs – these have proved useful in de-escalating situations but also very useful in enabling prosecution where a victim is afraid to testify. Victimless prosecution improves safety for victims.

**c) DVPNS & DVPOs** - ask how the orders will be enforced. Will police be required to arrest immediately a breach is perpetrated? What evidence will be required for a breach? The UK government are considering electronically tagging abusers on DVPOs, so **maybe we should ask that IoM law includes use of Tagging. What protection is there for victims after an offender comes out of jail?** DVPOS need to be applicable after as well as before, or need to last longer or we need a similar order that comes into force after release.

**d) Law needs to cover online abuse/harassment and also abuse by proxy (friends and family making threats or comments when the actual perpetrator is prevented from doing so).** Law needs to recognise the severe impact of online abuse and abuse by the friends and family of the offender and stop putting the responsibility onto the victim to ignore it/not engage/not retaliate etc. Again it is not helpful to label these same/ongoing abuse behaviours by a different name; the public needs to understand this is part of the domestic abuse and needs to be prosecuted as such. It needs to cover threats (to “go public”/to sabotage career as well as direct threats of physical harm); monitoring of the victim through or of social media or other technology-related means and also Isolation (through online smears)

**e) Victim impact statements should be allowed**

**f) “Excuses” currently used as mitigation:** being drunk; being stressed, having the victim “pressing your buttons”, being in a management position, being a respected member of the community should no longer be permitted to be used as a defence in Court. Drink, drugs etc are not mitigation, they are aggravation.

**g) Specialist domestic violence courts?**

**h) Perpetrator programmes?** (NOT anger management - this is not an anger problem)

**i) Bail conditions?**