

Consultation Questionnaire

Domestic Abuse Offence and Domestic Violence Disclosure Scheme - A Consultation

RESPONDING TO THE CONSULTATION

The Department of Justice (DOJ), is seeking your views on:

- whether there should be a specific offence that captures patterns of coercive and controlling behaviour in intimate relationships; and,
- what measures should be in place, if any, with regard to disclosing information about an individual's history of violence to an intimate partner/new partner

Please use this questionnaire to tell us your views on the draft document.

Please send your response, **no later than close of play on Friday 29 April 2016**, to:

Department of Justice
Community Safety Division
Room A4.24
Castle Buildings
Stormont Estate
BELFAST
BT4 3SG

Tel: 028 9052 3772

E-mail: Community.SafetyUnitProj@dojni.x.gsi.gov.uk

Please note that all responses will be treated as public and may be published on the DoJ website. If you do not want your response to be used in this way, or if you would prefer for it to be used anonymously, please indicate this when responding (See Statement of Confidentiality and Access to Information Legislation below).

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Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with access to information legislation: these are chiefly the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004 (EIR).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice (section 45) with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the DoJ.

For further information about confidentiality of responses please contact the Information Commissioner's Office

Northern Ireland Information Commissioner's Office
3rd Floor
14 Cromac Place
Belfast
BT7 2JB

Tel: 028 9027 8757
or 0303 123 1114
Email: ni@ico.org.uk

Website: <http://www.ico.org.uk/>

Please tick the box below if you want your response to be treated as anonymous.
(Response details may still be shared under any future Freedom Of Information requests.)

I want my response to be treated as anonymous.

Thank you for completing this questionnaire and providing input to this consultation.

SECTION 1: ABOUT YOU

Consultee Details

Question (a):

I am responding as... *(Please tick one option only)*

A member of the Public

On behalf of an organisation

Other.....*(Please specify)*

Question (b):

Please enter your details below:

Name:	Mr David McFall
Job Title: <i>(if applicable)</i>	Acting Partnership Manager
Organisation: <i>(if applicable)</i>	Fermanagh & Omagh Policing Committee Safety Partnership
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TOPIC: SHOULD THERE BE AN OFFENCE OF DOMESTIC ABUSE

This consultation seeks views on whether the DOJ should create a specific offence that captures patterns of coercive and controlling behaviour in intimate relationships, in line with the proposed definition of domestic abuse as set out in the draft *Stopping Domestic and Sexual Violence and Abuse Strategy*.

Question 1:

Does the current law adequately provide sufficient protection to victims of domestic abuse?

(Please tick one option only)

Yes

No

Please provide more detail below.

Although there are various criminal offences relating to common assault, assault occasioning actual bodily harm, grievous bodily harm and other offences there is no specific offence which deals with offending up to the threshold of common assault and this has been identified as gap where victims who are experiencing domestic abuse require support.

The definition of abuse needs to be included.

The current law provides protection to victims when there is an issue of violence, the Partnership felt that this needs to change to cover abuse in all forms.

The current situation also relies upon other pieces of legislation such as harassment law to protect victims, the partnership was of the opinion that a specific piece of legislation should be introduced to deal the specific offence

Question 2:

Should the law be strengthened, for example, to include a specific domestic abuse offence that captures patterns of coercive and controlling behaviour in intimate relationships?

(Please tick one option only)

Yes

No

Please provide more detail below.

The Partnership felt that consideration needs to be given to the different elements of the definition of an intimate / family relationships. This needs to be broadened and not just exclusive between 2 adults.

Furthermore, it was felt that consideration needs to be given to the following:

- **what type of evidence is required to secure a conviction bearing in mind most of these type of incidents occur between partners with no other witnesses.**
- **There needs to be clear guidelines as to what an “intimate relationship” is and who the offence refers to.**
- **What support will be available for victims.**

Question 3:

How would any changes be practically implemented?

Please provide detail below.

The Partnership suggested implementing a Domestic Abuse offenders register, similar to the existing Sexual Offenders register.

This would only include convicted offenders / conditional offenders.

The register could be managed by a designated body for example the PSNI and or by multiagency group.

There would be a need for Guidelines to be implemented.

The Partnership suggested that consideration needs to be given to introducing a restorative justice programme. This would involve holding offenders to account for what they have done and helping them to take responsibility and to make amends. This programme would lead to rehabilitating offenders, implementing a learning process.

Support systems would need to be put in place for those persons coming off the register after a certain length of time. It was suggested that a model consisting of counselling and education programmes could be considered.

Furthermore, the Partnership suggested education and awareness programmes for public bodies and the general public.



OPTIONS FOR DISCLOSING INFORMATION ON DOMESTIC VIOLENCE

The consultation seeks views on disclosing information about an individual's history of domestic violence to a new partner. It seeks views on a suitable model where the public have a "right to know" or a "right to ask", or whether current arrangements under existing legislation are sufficient. There are three options we would like you to consider:

Option 1: Continue current arrangements under existing law

Option 2: A "Right To Ask" National Disclosure Scheme

Option 3: A "Right To Know" National Disclosure Scheme

Option 4: A "Right To Ask" and a "Right To Know" National Disclosure Scheme

OPTION 1: CONTINUE CURRENT ARRANGEMENTS UNDER EXISTING LAW

Question 4:

To what extent do you believe that the current arrangements are effective in preventing domestic violence?

Please provide detail below.

Having received information on all the options that are being considered the Partnership members were of the opinion that Option 4 "Right to Ask" and a "Right To Know" National Disclosure Scheme was the best option.

Under current legislation the Police can disclose information to those who are deemed to be at immediate risk and this decision is taken by the Police. However there is no option for a person to make application to have information disclosed to them and if a person does have genuine concerns about a new partner there is no process in place.

The Partnership considered all the options and were of the opinion that the right to ask and right know was the best solution to the situation where a person has genuine concerns about a partner.

Question 5:

How could the current arrangements be improved?

Please provide detail below.

There has to be a more effective method of information sharing among the PSNI and other agencies should this be implemented. It was suggested that a Multi-agency panel could be set up to oversee the process and with this multiagency approach any decision taken is more informed.

However the Partnership having considered all of the above options concluded that option 4 was A “Right To Ask” and a “Right To Know” National Disclosure Scheme was their preferred option.

OPTION 2: A “RIGHT TO ASK” NATIONAL DISCLOSURE SCHEME

Question 6:

Should a formal system be put in place to enable ‘A’ to ask the police for information about the previous violent behaviour of ‘B’?
(Please tick one option only)

Yes

No

Please provide more detail below.

Please see Option 4 at question 12

Question 7:

Do you agree that the proposed model, with appropriate modifications following consultation, is a suitable model to apply under this option?

(Please tick one option only)

Yes

No

Please provide more detail below.

N/A

Question 8:

- a) What do you see as the potential risks and benefits?
- b) How might any risks be minimised?

Please provide detail below.

N/A

OPTION 3: A “RIGHT TO KNOW” NATIONAL DISCLOSURE SCHEME

Question 9:

Should a ‘right to know’ system be put in place to ensure that the PSNI proactively shares information to ‘A’ about the previous violent behaviour of ‘B’?
(Please tick one option only)

Yes

No

Please provide more detail below.

N/A

Question 10:

- a) What do you see as the potential risks and benefits of such a scheme?
- b) How might any risks be minimised?

Please provide detail below.

N/A

Question 11:

What other mechanisms for disclosing information about a subject's violent behaviour do you consider appropriate?

Please provide detail below.

N/A

OPTION 4: A “RIGHT TO ASK” AND A “RIGHT TO KNOW” NATIONAL DISCLOSURE SCHEME

Question 12:

Should both a ‘right to ask’ and a ‘right to know’ system be put in place to:

- enable ‘A’ to ask the police for information about the previous violent behaviour of ‘B’, and
- ensure that the PSNI proactively shares information to ‘A’ about the previous violent behaviour of ‘B’?

(Please tick one option only)

Yes

No

Please provide more detail below.

The Partnership felt that by implementing a Domestic Abuse offenders Register, similar to the existing Sexual Offenders Register would be the most suitable process to adopt to address this form of disclosure.

The Multi agency group who oversee the process will have access to knowledge about all Domestic Violence perpetrators and will be best placed to deal with disclosures

This would only include convicted offenders / conditional offenders.

The register could be managed by a designated body for example the PSNI and or a panel / committee.

There would be a need for Guidelines to be implemented.

However, the Partnership stated that this would need to be fit for purpose for Northern Ireland.

Question 13:

- a) What do you see as the potential risks and benefits?
- b) How might any risks be minimised?

Please provide more detail below.

The following possible risks were identified;

- **Difficulty in managing the process in relation to managing the information and resourcing. The pilot scheme in England and Wales identified issues relating to process.**
- **The need to create awareness around the Register and this refers to the statutory bodies and the general public**
- **Management of information following disclosure to 'A' the applicant**
- **The rights of 'B' needs consideration**

The following benefits were identified;

- **'A' would be more informed enabling them to make an informed choice about their relationship**
- **Any offenders would become more aware of the consequences of their offending and the long term effects it may have on them.**

The Partnership suggested that risk could be minimised by implementing a Mult-agency approach to information gathering/sharing and also support being available after the information is disclosed

Question 14:

What measures should be put in place to address some of the challenges identified during the pilot in England and Wales?

Please provide more detail below.

The findings showed that in England and Wales whilst the system has been in place for some time it seems to be very bureaucratic. Should this system be introduced it would require adequate resourcing and support.

Secondly it was felt that it would be necessary to raise awareness with the public and particularly amongst front line staff, there appeared to be a lack of knowledge among some of the agencies who were involved in the process and this would need to be addressed with specific training.

The implementation of a Multi-agency approach would address some of these issues and be a focal point for the process.

Scope of Disclosure

Question 15:

Should disclosure cover all violent behaviour by 'B' or only those relating to domestic violence instances?

(Please tick one option only)

Yes

No

Please provide more detail below.

Although it may be desirable for 'A' to know this it was felt that disclosure should refer to domestic violence incidents only.

Furthermore, it was felt that if all violent behaviour was disclosed this would be too difficult to defend.

Question 16:

Should disclosure of 'B's' violent behaviour be extended beyond convictions to encompass intelligence?

(Please tick one option only)

Yes

No

Please provide more detail below.

There were concerns around the disclosure of “intelligence” and what can be considered as intelligence.

Each incident needs to be dealt with on an individual basis. For instance should the intelligence be of calls to a particular address regarding domestic violence, this may be relevant providing there is other information from a partner agency to support this.

However, there may be recorded intelligence which is of a malicious or inaccurate nature and this should not be used.

Question 17:

Do you agree that information should be disclosed to third parties other than 'A' (e.g. a sibling or parent of 'A')
(Please tick one option only)

Yes

No

Please provide more detail below.

The Partnership felt that Information should be disclosed to third parties other than 'A' in the incident of 'A' deemed vulnerable or not fully capable of making decisions for themselves. However the information that is going to be shared is of a highly sensitive nature and only after a rigorous process devised by the multiagency group should this information be passed on to a third party .

Question 18:

What should be the extent of the relationship between the 'A' and 'B' before a disclosure is considered?

Please provide detail below.

This again would tie in with the definition of an intimate relationship (see question 2)

Question 19:

What in your view are the circumstances where a disclosure should not be made?

Please provide detail below.

The Partnership felt that disclosure should not be made in the following circumstances;

- **Where it is considered that the allegations being made by A are unfounded.**
- **When a relationship has finished and this has been verified by independent sources and there is no likelihood that the relationship will commence again. In this situation the applicant should not be informed.**

Question 20:

Are you aware of any disclosure scheme models in other jurisdictions that we should explore?

(Please tick one option only)

Yes

No

Please provide more detail below.

IMPACT OF THE CONSULTATION PROPOSALS - EQUALITY AND HUMAN RIGHTS

Section 75 of the Northern Ireland Act 1998 requires Departments to “have due regard” to the need to promote equality of opportunity between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation; between men and women generally; between persons with a disability and persons without; and between persons with dependants and persons without. Departments are also required to “have regard” to the desirability of promoting good relations between persons of a different religious belief, political opinion or racial group.

Question 21:

What are your views on the impact of current arrangements for different groups?

Please provide detail below.

The current arrangements do not cater for individuals who are experiencing low level domestic abuse. There was also an issue identified that financial circumstances because of Ethnicity should not exclude a victim from accessing supporting services.

(It was identified by a member that a victim from another country had to fund their own sheltered accommodation whilst a UK citizen could avail of this free of charge).

The Partnership felt that support for victims of domestic abuse should be free and available regardless of background.

IMPACT OF THE CONSULTATION PROPOSALS - EQUALITY AND HUMAN RIGHTS

Question 22:

What are your views on the impact of a domestic abuse offence for different groups?

(If you consider there will be adverse impact on certain groups, please give details and comment on what you think should be added or removed to alleviate this impact.)

Please provide detail below.

The Partnership discussed the impact that domestic abuse has on victims and the wider family circle and are of the opinion that financial implications should not deprive a victim of support when dealing with domestic abuse.

Question 23:

What are your views on the impact of a “right to ask” scheme for different groups?

(If you consider there will be adverse impact on certain groups, please give details and comment on what you think should be added or removed to alleviate this impact.)

Please provide detail below.

The right to ask would only impact on the perpetrator but it may affect some groups for example from various religious backgrounds. The Partnership felt that there should be equality for all groups. When a right to ask or right to know process has begun consideration must be given to all equality and human rights aspects.

Question 24:

What are your views on the impact of a “right to know” scheme for different groups?

Please provide detail below.

There should be Equality for all groups and in the interest of others. Bearing in mind that Cultural differences and individual religious beliefs can create difference.

Question 25:

Is there an opportunity to better promote equality of opportunity or good relations?
(Please tick one option only)

Yes

No

Please give details as to how.

The Partnership felt that there needs to be heightened awareness within the community of the scheme and heightened awareness among the agencies involved.

If a similar scheme to the sexual offenders Register was to be introduced there would be a legal requirement for perpetrators of domestic violence to register as part of their conviction and this would require a change in the law. Details of this requirement register would be carried in reportings of domestic violence cases.

Education in schools from pre-school upwards.

Programmes such as early intervention and social skills would be beneficial.

Question 26:

Are there any aspects of these proposals where you consider potential human rights violations may occur?

(Please tick one option only)

Yes

No

Please give details.

The Partnership discussed the Human Rights implications of their suggested schemes and the following were identified;

- **Cognisance of both the perpetrator and the victim.**
- **Victims supported in court**
- **Human rights implemented equally**
- **Translators provided**
- **Equality of opportunity for all multi-cultures**
- **Judicial training in this specific field.**

Please use the space below to provide any additional comments you may have.

It would be helpful if you reference which part of the document you are commenting on. If you refer to any other documents, please provide the title, author and if possible approximate date of publication.