Submission on the Family Whanau Violence Bill

From Shine – Safer Homes in New Zealand Everyday
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Shine

Founded in 1990, Shine – Safer Homes in New Zealand Everyday – is domestic abuse specialist service provider. We support adult and child victims of domestic abuse to be safe and perpetrators to change. We train professionals and work to prevent domestic violence in the next generation. Shine is a service of Presbyterian Support Northern, one of New Zealand's largest social service providers.

Shine Services include:

- Shine's national Helpline (0508-744-633);
- Victim advocacy and safety planning;
- Women's refuges
- KIDshine, a crisis service for children exposed to domestic violence;
- No Excuses men's stopping violence programme;
- Professional training programmes delivered throughout NZ;
- The DVFREE workplace programme
- Shine in School, educating young people to become champions of change

Shine has received referrals of family violence victims (male and female) from Auckland Central Police since 1996. We prioritise our response to victims on their level of risk of serious injury or being killed by the perpetrator, based on a risk assessment tool that we have developed and continue to refine.

Shine's expertise on domestic abuse is based on knowledge gleaned from our work with victims and perpetrators of domestic abuse on a daily basis, and from researching models and experience and keeping up with research both from New Zealand and overseas.

Overall Feedback

Overall, most of the changes being proposed seem consistent with the newly stated purpose of the bill:

(a) recognising that family violence, in all its forms, is unacceptable; and
(b)stopping and preventing perpetrators from inflicting family violence; and
(c)keeping victims, including children, safe from family violence.

We appreciate that this bill will eliminate a number of inconsistencies between acts, especially between the Domestic Violence Act and the Care of Children Act, and that it will add/revise details to enhance safety provisions and improve response to perpetrators of family violence.

We applaud the work being carried out on competency requirements, and we will watch with interest how these requirements are utilised once finalised.

Implementation of the law

While there are certainly many points of this bill we support, we also feel it is important to point out that the legislation is not a significant part of the problem – according to previous research and our own experience in working with thousands of victims of domestic violence every year. The Domestic Violence Act has always been a fundamentally sound piece of legislation. A far more significant problem for victims of domestic violence has been the inadequate and inconsistent implementation of this law.

We are hopeful that Government will give implementation of this law as much focus, attention and resourcing as is required to truly make strides towards a system that provides effective intervention to keep victims safe, stops perpetrators from inflicting further violence, and prevents more family violence from occurring.

In many ways, significantly reforming how the law is implemented is a far more difficult challenge than changing the law itself. It requires adequate resourcing for a sector that has never received close to adequate funding to meet the need.

Adequate implementation of the law is also very much dependent on establishing protocols or procedures to guide the decision-making of a range of professionals, and requiring training and competencies to assist those professionals to have the necessary knowledge and skills to act on those protocols. This is particularly challenging as, in our experience, many professionals – especially the ones with the most power over the lives of victims and perpetrators of family violence, and the ones with the least accountability for making poor decisions, believe that they have no need of such protocols or training. In other words, they do not know what they do not know, and they do not understand how the system is chronically failing to keep victims safe and prevent perpetrators from committing further violence.

For example, amongst the New Zealand judiciary, in our experience there is wide a disparity of understanding of the issue and how decisions impact on safety of victims. There is no reason to expect that judges have sufficient knowledge and understanding of this specialist field when they receive no required training in this area, there are no competency requirements, and there is no accountability or professional supervision over the decisions they make. Other international jurisdictions have sought to remedy this problem by requiring intensive and annual training for judges who sit in family violence courts, and establishing a body to develop, update, and deliver this training that is made up of a combination of judges (or retired judges), specialist service providers, and sometimes also researchers in the field. An excellent example is the National Judicial Institute on Domestic Violence in the USA. This chart, last updated in 2013, shows the different ways that various states in the USA have required such training for judges: http://www.ncjfcj.org/sites/default/files/chart-mandatory-dv-training-for-judges.pdf

Negotiation, mediation and restorative justice

Another overarching concern we have is the issue of requiring victims to attend meetings or any form of negotiation or mediation with their perpetrator. Even if there are sufficient safeguards and supports to keep the victim safe during the process, victims are unlikely to argue for what they need for themselves and their children to be safe, as they are commonly accused of being 'obstructive' or 'alienating' by perpetrators of domestic violence, the perpetrator's lawyer and the judge. A well-informed support person for the victim provides some degree of safety in some circumstances. The requirement to attend any such meeting should be informed by the victim's level of fear of the perpetrator.

Barriers to well-considered submissions from specialists

Finally, we feel that we must comment on the challenge inherent in preparing this submission. The only specialist domestic violence service provider with a dedicated policy person is the National Collective of Independent Women's Refuges. No standalone domestic violence specialist service providers that we are aware of have this kind of resource available to dedicate the time and resource necessary to write a carefully considered submission on this long and complicated bill. Shine is not alone in having been severely underfunded for providing direct services for both victims and perpetrators of domestic violence for all the years of our existence, and more so in recent years as local police have pressured us to respond to more referrals. We have received an increasing number of referrals of victims whom we assess as at extremely high risk of serious injury or lethality, and we have experienced cuts to funding from various government contracts, and lack of increases for cost of living, which amount to cuts, with some contracts eliminated altogether. This is to say that if Government wants to receive thoughtful consideration and feedback of this bill from specialists in the sector, there must be adequate resourcing to do so.

Spending the time necessary to write this submission has taken time away from other critical tasks, such as raising funds from the private sector – a necessity for continuing to deliver our services at current levels. We have made this sacrifice because we believe it is important to provide our feedback, but our submission could have been more detailed and more informed by case studies and consultation with frontline staff. However, other smaller specialist organisations will simply not be able to a submission at all. The sector's input will be far less rich and informed as a result.

Detailed Feedback

Name of principal Act

We have reservations about changing the name of the principal Act from the Domestic Violence Act to the Family and Whanau Violence Act. While the proposed new name makes more clear that children and family members beyond intimate partners are included in the act, it also could be seen to exclude intimate partners who are not married or in a long-term committed relationship, or do not yet consider themselves part of a family unit. Yet the people who are most vulnerable to intimate partner abuse are young women, and this is often in the early stages of a relationship, before either person would consider themselves to be in a 'family relationship'. Also, so much of

domestic violence happens after couples separate or divorce, again when someone is unlikely to consider their relationship to be a 'family relationship'. Finally, in Shine's experience, many LGBTQ (lesbian, gay, bisexual, transgender, queer) couples see 'family' as a term that does not encompass their relationships, even when they are long-term, committed relationships.

It is also unclear why 'Whanau' is included in the name of the Act, as section 4 has been amended to replace 'domestic relationship' with 'family relationship', not 'family or whanau relationship', so in fact the Act does not clearly apply to whanau relationships that are more distant than what would normally be considered 'family' relationships. This is confusing terminology; a cynical view would be that the name is designed only to sound culturally inclusive.

Purpose and Principles of Act

Shine supports the purpose statement including a point about 'stopping and preventing perpetrators from inflicting family violence'; this needs to be of equal focus under the law with keeping victims safe, as victims *cannot* be safe unless perpetrators are prevented from inflicting further violence.

We also support the addition to the purpose of the point that 'A court or person who exercises a power conferred by or under the Act must be guided in the exercise of that power by the purpose of the Act.'

Shine supports all of the new Principles, as they are all vital principles in responding to domestic violence.

While it does make sense to have a 'high level' purpose statement that is supported by more detailed principles to 'guide achievement of the purpose of the Act', we believe it is critical to incorporate these Principles into police, court, probation, and other criminal justice procedures, to make a meaningful difference in achieving the purpose of the Act.

Our concern with moving 5 (2) (b) "ensuring that access to the Court is as speedy, inexpensive, and simple as is consistent with justice;" to a principle under the Act, is that this point would be seen as a lower priority.

Principle 1 B(c) notes that children are at risk of harm "including seeing or hearing violence." Specialists in the field of domestic violence now talk about harm caused to children from 'exposure to violence', as research is clear that children are harmed even when they do not see or hear it, but simply by living in an environment where it is occurring. We know this to be true from our experience of working directly with children who have not seen or heard the violence. For example, children living with a 'distant' mother who has PTSD symptoms, a mum who has 'disappeared' because she was taken to hospital after an injury, a father who 'disappeared' after being arrested, a father who asks their children to monitor and report on their mum's daily activities, etc.

We believe that it is important for the principles to include some explanation of the particular vulnerability of women, LBGTQ communities, the disabled, Māori and Pāsifika, and immigrants with English as a second language, all of whom feature disproportionately in domestic violence prevalence statistics.

We believe that principle 1B (f) which states that perpetrators should "in some cases be required to engage with services to help them stop and prevent their family violence" should be much more

strongly worded to something like 'in nearly all cases'. This is a substantial change from the compulsion to attend a service in the existing Act and provides too much discretion, allowing perpetrators of violence to avoid attending stopping violence services. There should be some guidance or restrictions around the criteria used to determine when a perpetrator should not be required to engage with such services, e.g. 'except in cases where the perpetrator is not able to engage because of pre-existing mental or physical health issues.'

We support the inclusion of principle 1B (j) 'decision makers should consider the views of the victims of family violence, and respect those views unless doing so would or may compromise victims' safety.' Quite often we have seen or known about judges asking for victim input, possibly with the best of intentions, but unknowingly putting the victim in an impossible position if it is unsafe for her to ask for perpetrator accountability or separation against the perpetrator's will. The ultimate goal in any decision making should be achieving victim safety, as the victim is most often not in a position to speak forthrightly about what she needs to be safe, without fear of repercussion.

Section 2 Definitions

Definition of a Child

We support the change in the definition of child from a person under 17 to a person under 18 years regardless of the marital or defacto status. However, children of an applicant should be protected beyond the age of 18 without the hassle, expense, and delay of having to apply for protection themselves. In the situation of a mother with a 17 year old child getting a protection order, for example, it would make no sense for that 17 year old to have to apply for their own order a matter of months after the mother has received an order. The court has already acknowledged that the 17 year old is in need of protection.

We support the inclusion of any child who ordinarily or periodically resides with the applicant regardless of whether or not they were born before or after when the order was made.

Definition of Contact

We believe that "indirect contact" should also include loitering near the applicant's residence or work, parking their vehicle within sight or near the applicant's residence or work place, blocking the applicant's entranceway or driveway or being outside or at the applicant's residence or place of work, placing themselves in a known pathway of the applicant in a public place, and not removing themselves from a place when the applicant is clearly present.

Meaning of family violence

Shine supports the inclusion of coercive control in this section as we hope that this will help people understand the dynamics, purpose and effect of family violence. However, the way the new wording is written makes it sound like it may or may not be a feature, and similarly that harm may or may not be a feature. However, coercive control and cumulative harm are far more fundamental than the way it has been reworded. We propose the following wording:

'Violence against a person includes a pattern of behaviour (done, for example, to isolate from family members or friends) that is made up of a number of acts that (in line with *new section 3A(2)*)

are all or any of physical abuse, sexual abuse, and psychological abuse. This pattern of behaviour is coercive or controlling (because it is done against the person to coerce or control, or with the effect of coercing or controlling, the person), and causes or may cause cumulative harm to the victim.'

We support the more detailed definition of psychological abuse under the Act which gives more examples of intimidation and harassment, now includes ill-treatment to household pets and other animals, and now includes financial/economic abuse. There are other common forms of psychological abuse that may also be useful to include, and which may help professionals and lay people to better understand the range of tactics that are used to abuse a partner or family member, e.g. denying the essentials of living such as food, shelter or essential medication; surveillance or stalking (constantly checking up on her), confinement and/or entrapment, degrading and humiliating name calling, reproductive control, and attempting to make the victim believe they are mentally unwell by denying her reality.

We support the inclusion of 'financial or economic abuse' under 3B (1) about Psychological abuse, but we are concerned the use of the word 'unreasonably' in the phrase 'unreasonably denying or limited access to financial resources..' It would be far more clear to say 'Financial or economic abuse (for example, denying or limiting access to financial resources arbitrarily or unilaterally.'

Meaning of domestic relationship

We have the same concern in terms of replacing 'domestic' with 'family' here as explained above re the Name of the Act. Some of the relationships in this definition are not relationships that most people would commonly understand in the context of 'family relationships'.

Applications against minors

We also support Clause 57 replacing section 124D so that a qualified constable may make a Police Safety Order against a child if satisfied that it is justified by special circumstances. A situation we are seeing more and more often is that of a teenage boy abusing or intimidating his mother or other family members, and in some situations it would make sense for orders to be issued to protect victims from teenagers who are still minors. If 'child' is to mean a person under 18 rather than 17, there will more cases where an order against a minor will be justified and necessary to protect an applicant.

Consent to contact

Shine supports requiring that consent to contact be in writing or digital communication, as this makes it much more difficult for a perpetrator to argue that consent was given when it was not. We also support that cancelling consent may be in any form so that may be as easy as possible for a victim to make happen if/when, for example, the perpetrator is using threatening or intimidating behaviour.

Interim parenting orders

We are very happy to see an effort being made to align the Care of Children Act with the Domestic Violence Act so that these two laws do not contradict each other in any way. Specifically interim

parenting orders under the Care of Children Act makes sense, but we would want there to be assurance that these interim parenting orders are given urgent priority so that adult victims' safety is not compromised.

Power to discharge protection order

We support prohibition of discharging the order unless satisfied that the order is no longer necessary for the protection of any protected person. In our experience, applicants are very often pressured to discharge the order when a respondent is seeking care of the children under the Care of Children Act 2004. Judges should treat any application for discharge with the utmost caution.

Under new section 47 (1B) we recommend that the Court also take into account any breaches of other orders (such as Police Safety Orders, trespass notices and non-violence orders under bail conditions), any assault charges heard through the Criminal Court and the respondent's criminal record.

Breaching the order

We support the new section 49 (1) re committing an offence of breaching a protection order and the new section 50 re powers to arrest.

Programmes

We are concerned about the changes made in this section of the bill, primarily because we have a number of concerns about the Ministry of Justice non-violence programme for perpetrators that was introduced in 2014, and some of the proposed legislative changes could embed a programme structure that we already see as problematic.

The rationale behind approving assessors separately from programme providers is not clear. Our concern is that the unstated purpose is to approve assessors who prioritise filling in forms completely, rather than approving assessors who are qualified and skilled at working with, and especially engaging with, perpetrators of domestic violence, and who also have qualifications and experiencing assessing for alcohol and drug issues, mental health issues, etc. The only way this introduced system will be an improvement is if approving assessors will develop a pool of people who have all the skills of non-violence programme providers, as well as additional skIls in engagement, assessment, and knowledge of other areas that are common in this client group, especially alcohol and drugs and mental health.

We have concerns that assessment may be either for a non-violence programme or for 'prescribed services', without any clarification about when it would be appropriate to assess for prescribed services and NOT for a non-violence programme. In our experience, a non-violence programme is almost always appropriate and necessary, but someone with alcohol or drug issues or an untreated mental health issue may need to get treatment or support in those areas first before being able to engage with and benefit from a non-violence programme.

'Prescribed services' are not defined or even loosely described, so it is difficult to know if the addition of prescribed services in the Act will be of benefit.

We support the requirements of new section 51C that the service provider must report safety concerns not only to the Registrar but also to the District Commander of the Police and, if there is a risk to children, to the Chief Executive of the department responsible for the administration of the Children Young Person's and Their Families Act 1989. We also support the definition of concerns to be reported as ones about a risk that is imminent, escalating, or grave and that adds to the concerns that supported the making of the protection order.

We are happy to see new provisions in this bill to enable and enhance information sharing, but we would prefer there be a specific direction to courts and police to provide specific information to assessors and non-violence programme providers. We urge that this issue be addressed when developing the Code of Practice referenced in the Act.

To illustrate, when a man comes to an assessment for our stopping violence programme stating he does not have a problem and does not need the programme, our assessors will initially work to engage with the man, talk through his history of domestic violence and talk through how the programme might help him. Critical to our ability to engage with resistant men, is good information about his domestic violence and police history, including all history of police attendance at domestic violence incidents. Since Shine no longer receives all domestic violence referrals in the districts where we support victims, we do not have access to this police history. This is a major barrier to engagement and accountability for a man attending a non-violence programme.

We support New Section 51D(2) which states that the Judge or Registrar must inform the applicant of the applicant's right to make a request for a safety programme.

We are concerned about new section 51E(2) that ensures that the court need not make a direction under this section if the court 'considers that there is a good reason for not making a direction'. This allows far too much discretion to let a perpetrator 'off the hook' for attending a programme. We strongly urge that there be some guidance added for situations that warrant not making this direction, and that these situations be highly restricted to situations where perpetrators lack the actual capacity to engage because of physical or mental issues, or because there is not an appropriate programme for the respondent (because for example of language difficulties and the lack of interpreters).

We support new section 51R(3) that does not prohibit information being disclosed for stated purposes, including investigating or prosecuting an offence committed or alleged to have been committed during provision of the programme.

We support new section 51T requiring an assessor or programme provider to notify the Registrar if, after the court makes a direction, the respondent fails to undertake an assessment, fails to attend a non-violence programme, fails to engage with a prescribed service, or does not participate fully.

We also support new section 51Vso that a Registrar may bring such a matter before the court in response to notice of safety concerns or non-compliance, and new section W(1(to extend the powers available to a judge if a respondent appears before the court after non-compliance or safety concerns have been notified.

Occupation and Tenancy Orders

We support the additional clarity about grounds for an occupation or tenancy order to 'enable the applicant to continue existing childcare, education, training or employment arrangement for that person, a child of the applicant or both', especially as these considerations may not have been consistently considered grounds for the orders previously, but we believe are important to the stability, autonomy, and therefore safety of protected persons.

We also support that breaches of occupation or tenancy orders, and ancillary furniture orders, be considered breaches of the associated protection order, to allow consistency and clarity in addressing breaches of these orders.

Information supplied to Police

We very much support Clause 47 amending section 88 and specifying that the Registrar, when making a copy of the an order available to a District Commander, also to supply information by or on behalf of the applicant and to help the Police assess risks or needs arising from the family violence, and that this information may be disclosed by Police in accordance with section 66 of the Privacy Act. This is helpful direction to enhance interagency information sharing that could have a significantly positive impact on victim safety if and when the systems are established throughout the country that support routine information sharing, especially in cases assessed as high risk for the victims.

Police Safety Orders

We very much support Clause 56 which amends section 124B, to eliminate the requirement for a Police Safety Order to not arrest the person for an offence. Shine and other specialist service providers frequently see cases where Police Safety Orders were issued when it appeared that there was more than sufficient evidence to arrest, and the suspicion is that officers are issuing Police Safety Orders as a simpler and more straightforward response than arresting and prosecuting. Officers in these cases may truly believe that a Police Safety Order is a better alternative to arrest. The two options should not be mutually exclusive, as making of a Police Safety Order should enhance protection for the victim, not be an 'either or' option that provides arguably less protection than arresting with bail conditions for non-association.

We also support Clause 57 replacing section 124D so that a qualified constable may make a Police Safety Order against a child if satisfied that it is justified by special circumstances. A situation we are seeing more and more often is that of a teenage boy abusing or intimidating his mother or other family members, and in some situations it would make sense for orders to be issued to protect victims from teenagers who are still minors.

We support that no contact by the person bound with a person at risk is authorised, even if consented to by a person at risk – which is a significant difference to non-contact provisions of protection orders where contact may be made if consented to by the applicant. Victims often consent to contact under pressure or out of fear of repercussions from the bound person. We believe that this is a good provision because these orders are only made for a matter of days, thus would provide a window of non-contact time for victims to gain perspective on their situation, time for victim advocates to make contact with victims and talk to them about safety planning options.

We very much support new sections to direct that bound people be assessed for their risk and needs and that assessors identify an risk that the person is likely to continue inflicting family violence after expiry of the order, and any steps that the bound person should take to help that person accept responsibility for and stop inflicting family violence. This addition makes Police Safety Orders a much stronger tool in proactively addressing a bound person's violence and identifying risks that may be able to trigger, for example, more intensive Police monitoring or additional protections put in place for the victim.

Information requests

We are pleased to see the addition of new Part 6B to enable family violence agencies and social service practitioners to request, use or disclose personal information, but we suggest that the first statement of purpose be slightly reworded so that it states 'related to the prevention of family violence' (with underlined words added). We support the inclusion of a statement about determining whether to disclose information, that directs the agency or holder of information to have regard to the principle that helping to ensure a victim is protected should usually take precedence over both confidentiality and any applicable limit under information privacy principle 11 in section 6 of the Privacy Act 1993. This will clarify standing for interagency information sharing protocols, especially in cases where high risk to the victim has been identified. We also support new section 124X to stop proceedings being commenced or continued against an agency or practitioner who discloses information under new section 124V in good faith.

Code of Practice to guide service delivery

We look forward to a service delivery code of practice to guide delivery of services to victims and perpetrators of family violence and to stop or prevent family violence. Such a code of practice is sorely needed to ensure consistency and high quality of services, especially those that are funded by government and approved under this act. We urge a sufficient investment of time and resource to ensure this code is carefully crafted and well-informed by specialists, family violence researchers, and successful overseas models.

Amendments to the Bail Act

We support new section 8(3A) to the Bail Act to ensure that the primary consideration for the court when deciding whether to grant bail to a defendant charged with a family violence offence is the need to protect the victim and any person or people in a family relationship with the victim.

Similarly we support all of the following new sections that require primary consideration in decision making to be protecting of the victim and anyone in a family relationship with the victim:

- new section 8(3C) for decisions about bail for charges relating to a breach of protection order,
- new section 21(2A) to ensure that in determining whether to grant Police bail to a defendant charged with a family violence offence, and
- new section 30AAA to ensure that conditions of court bail granted by a judicial officer or Registrar to a defendant charged with a family violence offence

However, none of these sections are unlikely to consistently have the intended effect without improving competency amongst the New Zealand judiciary in the area of family violence, as discussed in our Overall Feedback at the beginning of this submission, under the section about Implementation of the law.

Amendments to Care of Children Act (CoCA)

We support Clause 85, new section 5A(3) requiring the court to have regard in particular to domestic violence matters in taking into account the principle that a child's safety must be protected and that child must be protected from all forms of violence, to specifically have regard to all relevant convictions for breaching a protection order or any other family violence offence, and of all relevant safety concerns notified or advised by an assessor or a service provider. This will help to align the CoCA with the Domestic Violence Act and we believe has potential to help guide decision-making to better protect children.

We also support Clause 87 to align examples of harm to a child under CoCA to the definition of family violence in the Family and Whanau Violence Act 1995.

We support updating terminology to help ensure that family dispute resolution is not a required pathway when there is an affidavit providing evidence that a party or child of a party has been subject to domestic violence by one of the other parties. We would prefer there be clearer and stronger language to ensure that no person who provides such an affidavit be required to attend family dispute resolution, and that FDR providers be required to make this clear both verbally and in writing when they routinely screen for family violence with new cases/parties.

We support the amendment to ensure that section 51 applies if the court is satisfied that person A has inflicted family violence, that is, has physically, sexually or *psychologically* abused the child or a person B who has the role of providing day to day care for the child. This helps align definitions and purposes between CoCA and the Domestic Violence Act by clarifying the inclusion of psychological abuse.

We support the insertion of new Section 57A, which gives the court power to make an incidental temporary protection order.

Amendments to the Crimes Act 1961

Coerced Marriage or civil union

We support the amendments to the Crimes Act 1961 concerning coerced marriage or civil union and the replacement of section 208.

Strangulation

We support the well-informed new section 189A, which makes intentionally or recklessly impeding a person's normal breathing, blood circulation, or both, an offense. We understand this action to be exceedingly dangerous and believe it should be treated accordingly.

Amendments to Criminal Procedure Act 2011

We support the inclusion of sections 168A and 168B and associated changes which allow Corrections to limit contact of a prisoner with a victim or associated victim of domestic violence. We are aware that people imprisoned for domestic violence related convictions are sometimes those at most risk of causing serious harm or death to their victims and victims are sometimes coerced into visiting.

Victims of domestic violence and their children who are associated with a convicted and imprisoned domestic violence offender should be able to get on with their lives. The prisoner's rehabilitation should not be at a cost to their well-being. There is a body of research which shows that children of such prisoners may suffer as a consequence of a parent's imprisonment and that children may be harmed by such contact. These provisions should override any contact arrangements made through CoCA.

We support new section 386(2)(va) to authorise new rules to provide for and authorise specified court documents relating to the offender, protected persons or both, being disclosed to or shared with assessors and service providers for purposes of that Act. This addition will enhance information sharing needed to provide better coordinated and more effective protection for victims.

Similarly we support amending section 387(1)(h) to authorise making regulations providing for information about proceedings to be transferred between courts where information is relevant to proceedings under specified Acts, including not only CoCa, but also the Domestic Violence Act.

Amendments to the Evidence Act 2006

We support the insertion of new section 106A which provides for a victim of domestic violence to give their evidence in chief by a video record made before the hearing, which must be recorded by a police employee no later than two weeks after the incident during which the offence occurred.

New section 106B(3)(a) states that the Judge must give each party an opportunity to be heard in chambers. This would be better stated ‘an opportunity to be heard separately in chambers’, to ensure that parties are not heard together where a victim is likely to be intimidated by close contact with the offender.

We support 106B(3)(b) to allow the Judge to call for an receive a report from any person considered qualified to advise on the effect on the complainant of giving evidence in the ordinary way or alternative way. We hope that Judges would, through interagency information sharing protocols, be aware when victims are being supported by local specialist service providers and consider calling for reports from those experts who have had close contact with the victim, rather than professionals sometimes seen as more ‘qualified’ by the courts, but who are often less knowledgeable about the dynamics of domestic violence and have had little to no experience working with the victim, e.g. psychologists.

Amendments to the Sentencing Act 2002

We support the inclusion of new section 123CA concerning the sharing of information to assessors or service providers to help them perform their functions under the Domestic Violence Act. We support the naming of the specific documents, which are to be shared.