



Consultation response to Managing Criminal Cases

Department of Justice

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Open to all women and men affected by domestic violence

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1.0 Introduction

Women’s Aid is the lead voluntary organisation in Northern Ireland addressing domestic violence and providing services for women and children. We recognise domestic violence as one form of violence against women. Women’s Aid seeks to challenge attitudes and beliefs that perpetuate domestic violence and, through our work, promote healthy and non-abusive relationships.

2.0 Core work of Women’s Aid

The core work of Women’s Aid in Northern Ireland, including Women’s Aid Federation Northern Ireland and the 10 local Women’s Aid groups is:

- To provide refuge accommodation to women and their children suffering mental, physical or sexual abuse within the home.
- To run the 24 Hour Domestic Violence Helpline.
- To provide a range of support services to enable women who are leaving a violent situation to rebuild their lives and the lives of their children.
- To provide a range of support services to children and young people who have experienced domestic violence.
- To run preventative education programmes in schools and other settings.
- To educate and inform the public, media, police, courts, social services and other agencies of the impact and effects of domestic violence.
- To advise and support all relevant agencies in the development of domestic violence policies, protocols and service delivery.
- To work in partnership with all relevant agencies to ensure a joined up response to domestic violence.

Throughout this consultation response, the term “Women’s Aid” is used to reflect the overall Women’s Aid movement in Northern Ireland, which is made up of ten local Women’s Aid groups and Women’s Aid Federation. The ten local Women’s Aid groups are all members of Women’s Aid Federation

Northern Ireland. Each Women's Aid group offers a range of specialist services to women, children and young people who have experienced domestic violence.

3.0 Women's Aid statistics (2011-2012)

- 12 refuges with 300 bed spaces, playrooms and facilities.
- 831 women and 586 children sought refuge.
- 15 resource centres for women seeking information and support; group work and training.
- 3,663 women and 4,152 children accessed the Floating Support service, and a further 1,909 women accessed other Women's Aid outreach services, enabling women to access support whilst remaining in their own homes and communities.
- Move-on houses for women and children leaving refuges.
- The 24 Hour Domestic Violence Helpline, open to all women and men affected by domestic violence, managed 43,949 calls.

4.0 Additional Women's Aid statistical data

- Since 1999, Women's Aid across Northern Ireland gave refuge to 15,545 women and 14,942 children and young people.
- During the last 17 years Women's Aid Federation Northern Ireland managed 326,809 calls to the 24 Hour Domestic Violence Helpline.

5.0 Statistics: Domestic violence & violence against women

- Domestic violence is a violation of Article 5 of the UN Universal Declaration of Human Rights – that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”.
- The joint DOJ, DHSSPS Strategy “Tackling Violence at Home” estimates that the cost of domestic violence in Northern Ireland, including the potential loss of economic output, could amount to £180 million each year.
- UNICEF research released in 2006, showing per capita incidence, indicates that there are up to 32,000 children and young people living with domestic violence in Northern Ireland.

- Where the gender of the victim was known, 75% of adult victims of domestic crimes recorded by the PSNI in 2009/10 were female.¹
- Over 30% of all domestic violence starts during pregnancy.²

6.0 Domestic violence: Crime statistics (Source: PSNI Statistics 2011/12)

- Domestic Violence is a crime. PSNI statistics for 2011/12 indicate that there were more recorded crimes with a domestic motivation (10,387) than the combined total of all the following crimes (10,327) – all recorded sexual offences (1,836), shoplifting (6,201) and theft of a motor vehicle (2,290).
- PSNI Statistics for 11/12 indicate that they responded to a domestic incident every 21 minutes of every day of the year.
- The total of 10,387 crimes with a domestic motivation in 11/12 represents an average of approximately 1 domestic crime every 51 minutes in Northern Ireland.
- The number of all recorded offences of murder in Northern Ireland in 11/12 total 16. Those classed as having a domestic motivation total 3. Therefore, 19% of all murders in Northern Ireland in 11/12 had a domestic motivation.
- There were 553 rapes (including attempted Rapes) in Northern Ireland in the period 2011/12.

(Source: PSNI Statistics 2011/12)

- Official sources (NISOSMC) estimate that up to 80% of sex crimes are not reported.

¹Findings from the PSNI Crime Statistics Report 2010/11 N.B. "Adult" defined as aged 18 and over

²Women's Aid Federation Northern Ireland

7.0 Consultation response

- Women's Aid Federation Northern Ireland welcomes the publication of the *Managing Criminal Cases* consultation, and the opportunity to comment on it on behalf of our 10 local groups.

8.0 Effect of Delay on Victims of Crime

- Women's Aid strongly believes that there is a need for an effective remedy to reduce delay within Northern Ireland's court system. Excessive delay has a number of negative impacts on those involved in the criminal justice process. For victims, delay causes additional and unnecessary stress and anguish in an already difficult and strained situation. It may re-traumatise them as they brace themselves over and over to relive their ordeal in the court setting. Delay also has a negative impact on the faith that the public and victims have in the justice system, and increases rates of attrition.
- For victims of domestic violence, delay has a number of additional negative impacts. Given that the victim has an intimate relationship with the defendant, she may be required to engage with him between hearings in court. She may have to meet him to comply with contact arrangements, may live with him, or may need to engage in any number of other interactions. The effect of delay on a victim of domestic violence is therefore even more severe, as she must continue to come into contact with the defendant while the case is on-going. This not only places excessive strain on the victim if the case is significantly delayed, but also offers more opportunities for the perpetrator to use that delay to manipulate the victim into dropping the case against him.
- If a victim of domestic violence is not in contact with the perpetrator, excessive delay and adjournments serve to increase the number of occasions that a victim may have to come into contact with the perpetrator in the court setting. Each extra day in court is another day where the victim must mentally brace herself to face her abuser. It also serves as another opportunity for the abuser to intimidate and manipulate a victim into dropping a case, and adds to the risk of re-traumatisation of the victim.

9.0 Changing the culture of delay

- Women's Aid agrees with the consultation document that there is a real need to change the culture of delay, and that this consultation should be as much about culture and attitude as it is about procedure and administration (at page 4). There is a need to realign the justice system so that it is victim-centred, moving away from the current model which is at the service and convenience

of those judges and legal professionals who work within it, and towards a system which is at the service of the victims of crime.

- Women’s Aid contributed to both the Criminal Justice Inspection Report on the care and treatment of victims and witnesses in the criminal justice system in Northern Ireland, and the Committee for Justice Inquiry into the Criminal Justice Services available to Victims and Witnesses of Crime in Northern Ireland (mentioned at page 10 of the consultation document). We note that both investigations recommend that case management be placed on a statutory footing, and that the CJI report recommends that “timescales, sanctions and incentives designed to deliver the most efficient and effective case progression” are implemented. Women’s Aid supports the recommendations of both reports.

10.0 Do you believe that Option III is the most effective option?

- No, we do not believe that Option III alone would be effective in speeding up cases through courts, reducing delay, and changing the culture that tolerates delay within the court system.
- We note that Option III places the onus for case management and preventing delay largely on the shoulders of judges. We do not believe that the duty to ensure that a case is heard promptly should be the sole responsibility of judges, nor should any changes only apply to them – rather it should apply to all staff and agencies within the criminal justice system. We note that the consultation document alludes to “duties on the prosecution and the defence”, however there is no further detail as to what these duties would be or how the case management rules might apply to them or affect them. It is the view of Women’s Aid that, if the proposed change does not outline the changes in conduct required at every step of the criminal justice process, it will not succeed in facilitating the culture change needed to significantly reduce delay. Agents at every step of the process should have ownership of the duty to act promptly and effectively, from PSNI officers submitting reports that are both within the allocated timeframe and containing sufficient information, to PPS agents making decisions on a file received, to barristers having the requisite knowledge and information to proceed with a case.
- Women’s Aid strongly rejects the assertion within the document that Option III is preferable because it is a less “disruptive” option (at page 38). In fact, we are of the view that in order to affect a true culture change, the amendments to the system need to be disruptive, and disrupt the old way of thinking and the tacit acceptance of delay. A clear change to the current *modus operandi* within the criminal justice process will be most effective to end the cultural

acceptance of delay and usher in a new way of working and of thinking among all agencies involved in the criminal justice process.

- Women's Aid is also of the view that without statutory footing, any changes made would be ineffectual and would not sufficiently convey the importance of the changes to those to whom it applies. Any change should be legislatively based, at least in part, to ensure its effectiveness and to enable the aims of this process to be met.

11.0 Do you think that Option III (or any other option) would be more effective if combined with Option I?

- Yes, it is our view that any changes made to ensure that cases are dealt with promptly must be placed on a statutory footing. We would be in favour of creating a statutory duty as outlined in Option I, combined with statutory timescales and specific duties on different agencies outlined at every step of the process as outlined in Option II. This could be combined with guidance for judges as proposed in Option III, to assist them in their management of cases.
- Women's Aid strongly supports the formulation of specific timescales to suit different types of case in the various courts, and believes that such time scales are best decided upon by those who are experts in court system and all the procedures that feed into it. We are aware that such a piece of work would require the analysis of what constitutes a reasonable timescale for different types of case across different courts, but it is our view that this work would be key to reducing delay and making the court system much more effective and streamlined overall.
- We would also see benefit in the introduction of case management hearings along the lines of the Scottish 'Intermediate Diet' example (outlined at page 29). These may be a helpful means of ensuring progress of cases and compliance with rules / time limits, in a setting that does not require victims to be present. If there were such intermediate hearings, compliance with statutory timescales could be managed effectively, and troubleshooting of anything that hinders completion of a case within the timescale could be addressed promptly. This could help avoid a situation whereby a time limit is approaching and there is no realistic means of compliance due to delays throughout the case process.
- We would also be in favour of a degree of flexibility being built into the legislation, to cater for instances in which there is inevitable delay due to unavoidable and reasonable circumstances of individual cases. This would however be an exception rather than a rule, and a case should meet a set of criteria, as outlined in legislation and further informed by case management

rules, before a delay was accepted as lawful by the judge presiding over the case.

- Women's Aid would further add that there are elements of some approaches by other jurisdictions to which we would be opposed. In particular we would strongly object to the element in the Scottish model where a case must be discontinued in the event of breach of statutory time limits (at page 29). Such a penalty is in direct contravention of the interest of the victim, and could result in more distress and trauma for them. Furthermore, if the case was then brought a second time, this could in fact add to the amount of time taken for the case to reach completion. We would not agree that this is a suitable outcome or penalty of a statutory time limit being breached, and would strongly urge that such a measure is not implemented in Northern Ireland.

12.0 Do you agree with the criteria used to analyse options?

- We largely agree with the criteria used to analyse the options. We would however contend that the solution must not only "make clear the change in behaviour required"; it should in fact cause that change in behaviour to take place.
- We agree that any solution must be realistically capable of operational deployment. However, we would point out that this depends on who is deeming a change to be realistically capable or otherwise. It is common for those working within a system to resist significant change, as it involves a move away from what is familiar to the unknown and necessarily involves a degree of discomfort in the transition to a new system of working. However, just because a change involves some discomfort and work to implement, does not make it incapable of deployment. Therefore we would stress that resistance to change from those within the system should not *per se* preclude that change from being implemented if it is in the best interests of victims and in the best interests of the system.

13.0 Are there any additional criteria which we should have included?

- We would add that the changes should improve the experience of victims who are engaging with the criminal justice process.

14.0 Are there any additional options which should have been considered?

- Please see our suggested approach at 11.0 (pages 7 – 8 of this response)

15.0 Are there any relevant issues which we haven't considered?

- We would again stress the prime importance of improving the victims' experience of the criminal justice system as an outcome.
- We would also again point out that in any institution there is resistance to change – this needs to be factored in and a change management process should be implemented to facilitate that change in an effective and efficient manner.

16.0 Are there any other comments you would like to make?

- Women's Aid would strongly urge that such reforms to tackle delay are extended to the civil process. There are a number of instances where delay significantly affects victims of domestic violence in the civil process, for instance applications for Non-Molestation Orders.
- We would also recommend that the introduction of specialist domestic violence courts would go a long way in improving delays in cases where domestic violence is a factor. Specialist domestic violence courts offer a proven remedy for some of the delay issues that the courts are currently experiencing in relation to cases where domestic violence is an element. They constitute a better case management system for such cases, and would enable any case, criminal or otherwise, that concerns domestic violence to be dealt with efficiently. Such specialist courts would also facilitate speedy and effective resolution of related cases in the civil or family law field.

17.0 Contact details

For further information about this response please contact:

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