

Scottish Borders Violence against Women (VAW) Partnership
Response to:

The Creation of A Specific Offence of Domestic Abuse – Proposed Associated Reforms to Criminal Procedure

The Scottish Borders Violence against Women (VAW) Partnership comprises representation from Scottish Borders Council, NHS Borders, COPFS, Border Women's Aid, Scottish Borders Rape Crisis Centre, Children1st, Caledonian System, Police Scotland, Solicitors, Adult Protection, Housing Strategy and the Alcohol and Drugs Partnership Support Team. The Partnership is responsible for the implementation of the Scottish Government's Equally Safe Strategy, at local level, adopting a partnership approach to prevention, provision, protection whilst supporting effective participation.

Please find detailed below, the response to the current consultation on the new domestic abuse offence.

A new standard condition of bail that prohibits an accused when they are charged with domestic abuse offences from obtaining precognitions or statements from a complainer except through a solicitor.

The VAW Partnership supports the proposal to introduce a new standard bail condition which will reduce pressure on the complainer whilst supporting fair administration of justice.

Bail condition re statements and precognitions seems to be a proportionate addition in that it protects victims but does not deny the perpetrator the right to access the evidence against them. Putting some breadth into what constitutes domestic abuse should remove dubiety and support the most appropriate action.

A ban on the accused conducting their own defence when they are charged with domestic abuse offences.

The VAW Partnership supports the proposal to introduce an outright ban on accused persons conducting their own defence in domestic abuse cases – this will help reduce the accused persons exposing the complainer to the trauma of their experience and exerting undue pressure on the victim to comply.

The introduction of expert evidence relating to the behaviour of the complainer in domestic abuse offence cases.

The VAW Partnership supports the proposal to permitting expert evidence relating to the behaviour of the complainer in domestic abuse cases. This would enable a range of jurors to be fully informed regarding the nuances of domestic abuse and explain the nature of coercive control, survivor strategies/coping mechanisms, and use a "gendered lens" to describe the ways in which control can be exerted that would not normally be visible?

Additionally, it would help jurors understand the typical decision-making processes of persons traumatised by domestic abuse. It would ensure that the specific nature of domestic abuse which determines a complainer's response in court would be better understood by a jury. The appointment of "expert" witnesses will require some discussion and development of criteria for appointment. It will be essential that expert witnesses are drawn from a range of disciplines in order that victim responses are not pathologised/medicalised.

The court will be required to always consider whether to impose a criminal non harassment order following an offender being convicted of domestic abuse offences.

The VAW Partnership fully supports this proposal – this would remove doubt and introduce transparency into the decision making process given the main purpose is protecting the victim.

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On behalf of the Scottish Borders VAW Partnership
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