

**The creation of a specific offence of Domestic Abuse and the
proposed associated reforms to criminal procedure**

Response by Sheriffs' Association to consultation paper

New standard bail condition

We are not aware of any evidence either statistical or anecdotal that persons accused of domestic offences have sought to intimidate complainers under the guise of taking statements. If there be such a mischief then it is addressed by the straightforward "no contact" special condition which covers any form of actual or attempted communication or contact.

Ban upon the accused conducting their own defence

Once again we are not aware of any evidence that accused persons conducting their own defence in domestic abuse cases is a problem in practice. However, given that such a thing might occur, such a ban would be extremely useful for dealing with the exceptional case.

The introduction of expert evidence

We consider all sheriffs are now alert to the fact that simply because a person continues to live with the alleged assailant, this does not undermine that person's credibility. The existing legal position is that skilled evidence of fact is admissible where that would be likely to assist the efficient determination of the case. There is a concern that the routine introduction of experts will be productive of delay and expense to no great purpose. A further concern is the identification of a sufficient number of suitably qualified experts. An expert

who provides only a dogmatic and unproven statement represents a real danger. There is a risk that the function of the court and of the jury as finders of fact will be usurped.

Mandatory consideration by the court of imposition of a non-harassment order upon conviction

In general this is welcome. However, there are practical difficulties which must be recognised particularly when the accused pleads guilty. Unless the court has heard evidence from the complainer, the court will have no means of knowing whether she would welcome a non-harassment order. Frequently the Crown is not in a position to inform the court about the attitude of the complainer. Absent relevant information, the requirement in every case to consider making an order may mean that cases will require to be continued in order that the necessary information be obtained. Therefore, an obligation should be imposed upon the Crown to provide information.

Sheriffs' Association

Airdrie Sheriff Court

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